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Monday, December, 14, 1987

Agrahayana 23, 1909 (Saka)

LOK SABHA DEBATES

(English Version)

Ninth Session
(Eighth Lok Sabha)



(Vol. XXXIV contains Nos. 21 to 28)

LOK SABHA SECRETARIAT
NEW DELHI

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Hindi proceedings included in Hindi Version will be treated as
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LOK SABHA DEBATES

LOK SABHA

Monday, December 14, 1987/
Agrahayana 23, 1909 (Saka)

The Lok Sabha met at Eleven of the Clock.

(MR. SPEAKER in the chair)

[English]

SHRI S. JAIPAL REDDY (Mahabubnagar): Sir,

MR. SPEAKER, what is the problem, Sir?

SHRI S. JAIPAL REDDY: Sir, the World Bank Report said that 10 per cent excess cost has been incurred on fertilizer plants resulting in a loss of hundred of crores for the country.

[Translation]

MR. SPEAKER: You give it in writing. We cannot proceed in this manner. You give it in writing.

(Interruption)

MR. SPEAKER: Why are you people making a noise when I am speaking? I have allowed only one person.

Madam, I will talk to you also. Why are you making a noise?

You give it to me in writing. I have not allowed what you have given. You give it to me and I will get the facts ascertained whether there is something like that.

[English]

Then I will allow.

SHRI SAIFUDDIN CHOWDHARY (Katwa): It is an important matter. Let us have a discussion.

(Interruptions)

[Translation]

MR. SPEAKER: Have I refused? I have not refused. I have just said that if you give it to me I shall get the facts ascertained and allow a calling attention.

[English]

SHRI SAIFUDDIN CHOWDHARY: It is a very serious matter. Let us have a discussion on this.

[Translation]

MR. SPEAKER: I will allow it after looking into it.

[English]

SHRI SAIFUDDIN CHOWDHARY: Tomorrow

[Translation]

MR. SPEAKER: Do not talk like this. Whatever is possible will be done. [English] I will find out and tell you.

[Translation]

SHRIMATI VIDYAVATI CHATURVEDI (Khajuraho) Mr. Speaker Sir, this morning two SSP's of Punjab, Mr. Brar and Mr. Gill have been killed. I want the increasing terrorism in Punjab to be brought to an end. Strict action must be taken so that such incidents do not occur in future.

(Interruptions)

[English]

PROF. MADHU DANDAVATE (Rajapur): Sir, we are in the midst of drought conditions; and the build-ings of railways....

(Interruptions)**

MR. SPEAKER: I am not allowing. I do not know. Not allowed.

(Interruptions)**

MR. SPEAKER: Not allowed.

(Interruptions)**

[Translation]

[English]

MR. SPEAKER: You give it to me....(Interruptions)...

No, no. Not allowed.

(Interruptions)**

MR. SPEAKER: Not allowed; not allowed; not allowed.

(Interruptions)**

MR. SPEAKER: We cannot take it up. Please sit down. Do not record. Not allowed.

(Interruptions)**

[Translation]

[English]

MR. SPEAKER: Do not waste your energy.

(Interruptions)**

MR. SPEAKER: Nothing goes on record.

(Interruptions)**

MR. SPEAKER: Not allowed.

(Interruptions)**

[Translation]

MR. SPEAKER: Why do you hurt your throat?

(Interruptions)**

MR. SPEAKER: I shall find out if there is something.

... (Interruption) ...

MR. SPEAKER: It keeps appearing in the Newspapers who spent how much.

[English]

I do not know.

(Interruptions)**

MR. SPEAKER: Nothing allowed. Not allowed.

(Interruptions)**

MR. SPEAKER: Now, I have a Motion which I have first to take up, that is this privilege motion. But I will first allow papers to be Laid on the Table.

(Interruptions)**

[Translation]

MR. SPEAKER: Why are you after it?

(Interruptions)

MR. SPEAKER: Why do you not sit down?

[English]

.. (Interruption)

MR. SPEAKER: Why do you not sit down, Colonel Saheb?

(Interruptions)

MR. SPEAKER: Now Papers to be Laid, Mr. Narasimha Rao.

11.06 hrs.

PAPERS LAID ON THE TABLE

[English]

Annual Report and Audited Accounts of and Review on Sports Authority of India for 1986-87

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT AND MINISTRY OF HEALTH AND FAMILY WELFARE (SHRI P. V. NARASIMHA RAO): I beg to lay on the Table

(1) A copy of the Annual Report (Hindi and English versions) of the Sports Authority of India for the year 1986-87 along with Audited Accounts.

(2) A statement (Hindi and English Versions) regarding Review by the Government on the working of the Sports Authority of India for the year 1986-87.

[Placed in Library. See No. LT-5392/87]

*Not recorded.

Review on and Annual Report of Cardamom Trading Corporation Ltd. for 1986-87, Notification under Export (Quality Control and Inspection) Act, Annual Report of and Review of Indian Diamond Institute, Surat for 1986-87 and of Federation of Indian Export Organisations for 1985-86.

**THE MINISTER OF FINANCE
AND MINISTER OF COMMERCE
(SHRI NARAYAN DATTA TIWARI):**
I beg to lay on the Table—

(1) A copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) Review by the Government on the working of the Cardamom Trading Corporation Limited for the year 1986-87.

(ii) Annual Report of the Cardamom Trading Corporation Limited for the year 1986-87 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5393/87].

(2) A copy each of the following Notifications (Hindi and English versions) under sub-section (3) of section 17 of the Export (Quality Control and Inspection) Act, 1963:—

(i) The Export of Fish and Fishery Products (Quality Control and Inspection) Amendment Rules 1987 published in Notification No. S. O. 876(E) in Gazette of India dated the 1st October, 1987.

(ii) The Export of Canned Fish and Fishery Products (Quality Control and Inspection) Amendment Rules, 1987 published in Notification No. S. O. 877 (E) in Gazette of India dated the 1st October, 1987.

(iii) The Export of Frozen Frog Legs (Quality Control and Inspection) Amendment Rules, 1987 published in Notification No. S.O.

878(E) in Gazette of India dated the 1st October, 1987.

(iv) S. O. 2651 published in Gazette of India dated the 3rd October, 1987 regarding rounding of inspection fee.

[Placed in Library. See No. LT-5394/87].

(3) (i) A copy of the Annual Report (Hindi and English versions) of the Indian Diamond Institute, Surat, for year 1986-87 along with Audited Accounts.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the Indian Diamond Institute, Surat, for the year 1986-87.

[Placed in Library. See No. LT-5395/87].

(4) (i) A copy of the Annual Report (Hindi and English versions) of the Federation of Indian Export Organisations for the year 1985-86 along with Audited Accounts.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the Federation of Indian Export Organisations for the year 1985-86.

[Placed in Library. See No. LT-5396/87]

Annual Accounts etc. of Himalayan Mountaineering Institute Darjeeling for 1983-84 and 1984-85 and of Nehru Institute of Mountaineering, Uttar Kashi for 1983-84 and 1984-85 and review thereon etc.

**THE MINISTER OF STATE IN
THE MINISTRY OF PARLIAMEN-
TARY AFFAIRS (SHRIMATI SHEILA
DIKSHIT):** On behalf of Shri K. C. Pant, I beg to lay on the Table—

(1) (i) A copy of the Annual Accounts (Hindi and English versions) of the Himalayan Mountaineering Institute, Darjeeling, for the year 1983-84 together with

[Shrimati Smita Dikshit]

Audit Report thereon.

[Placed in Library. See No. LT-5397/87].

(ii) A copy of the Annual Accounts (Hindi and English versions) of the Himalayan Mountaineering Institute, Darjeeling, for the year 1984-85 together with Audit Report thereon.

[Placed in Library. See No. LT-5398/87].

(iii) A statement (Hindi and English versions) regarding Review by the Government on the Audited Accounts of the Himalayan Mountaineering Institute, Darjeeling, for the years 1983-84 and 1984-85.

[Placed in Library. See No. LT-5397/87].

(2) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above.

[Placed in Library. See No. LT-5398/87].

(3) (i) A copy of the Annual Accounts (Hindi and English versions) of the Nehru Institute of Mountaineering Uttar Kashi for the years 1983-84 and 1984-85 together with Audit Report thereon.

[Placed in Library. See No. LT-5399/87].

(ii) A copy of the Annual Accounts (Hindi and English versions) of the Nehru Institute of Mountaineering, Uttar Kashi for the year 1985-86 together with Audit Report thereon.

[Placed in Library. See No. LT-5400/87].

(iii) A statement (Hindi and English versions) regarding Review by the Government on the Audited Accounts of the Nehru Institute of Mountaineering, Uttar Kashi for the year 1983-84, 1984-85 and 1985-86.

(4) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (3) above.

[Placed in Library. See No. LT-5399 and 5400/87].

Annual Report and Annual Accounts of and Review on Council for Advancement of People's Action and Rural Technology for 1986-87.

THE MINISTER OF STATE IN THE DEPARTMENT OF AGRICULTURE AND COOPERATION IN THE MINISTRY OF AGRICULTURE (SHRI YOGENDRA MAKWANA): On behalf of Dr. G. S. Dhillon, I beg to lay on the Table—

(1) A copy of the Annual Report (Hindi and English versions) of the Council for Advancement of People's Action and Rural Technology for the year 1986-87 along with Audited Accounts.

[Placed in Library. See No. LT-5401/87].

(2) A statement (Hindi and English versions) regarding review by the Government on the working of the Council for Advancement of People's Action and Rural Technology for the year 1986-87.

[Placed in Library. See No. LT-5402/87].

Review on the Annual Report etc. of National Bicycle Corporation of India Ltd. for 1985-86 and a statement re. delay in laying these papers.

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): I beg to lay on the Table—

(1) A copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) A statement regarding Review by the Government on the working of the National Bicycle Corporation of India Limited for the year 1985-86.

(ii) Annual Report of the National Bicycle Corporation of India Limited for the year 1985-86 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(2) A statement (Hindi and English versions) showing reason for delay in

laying the papers mentioned at (1) above.

[Placed in Library. See No. LT-5402/87].

Annual Report of and Review on Food Corporation of India for 1986-87

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES (SHRI H. K. L. BHAGAT): I beg to lay on the Table—

(1) A copy of the Annual Report (Hindi and English versions) of the Food Corporation of India for the year 1986-87 along with Audited Accounts, under sub-section (2) of section 35 of the Food Corporations Act, 1964.

(2) A copy of the Review (Hindi and English versions) by the Government on the working of the Food Corporation of India for the year 1986-87.

[Placed in Library. See No. LT-5403/87]

Statement correcting reply to Question No. 2319 Re pressmen who accompanied the Prime Minister on his visit to Vancouver.

THE MINISTER OF STATE OF THE MINISTRY OF INFORMATION AND BROADCASTING (SHRI A. K. PANJA): I beg to lay on the Table a statement (Hindi and English versions) (i) correcting the reply given on 23rd November, 1987 to Unstarred Question No. 2319 by Shri Hannan Mollah regarding pressmen who accompanied Prime Minister on his visit to Vancouver and (ii) giving reasons for delay in correcting the reply

[Placed in Library. See No. LT-5404/87]

Notification under Light house Act and Annual Report of and Review on Mormugao Dock Labour Board for 1986-87

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT

(SHRI RAJESH PILOT): I beg to lay on the Table—

(1) A copy of the Lighthouse (Removal of Lights and Reduction of Heights of Buildings Structures and Trees) Rules, 1987 (Hindi and English versions) published in Notification No. G.S.R. 938 (E) in Gazette of India dated the 27th November, 1987 under sub-section (3) of section 21 of the Lighthouse Act, 1927.

[Placed in Library. See No. LT-5405/87]

(2) (i) A copy of the Annual Report (Hindi and English versions) of the Mormugao Dock Labour Board for the year 1986-87 alongwith Audited Accounts.

[Placed in Library. See No. LT-5406/87].

(ii) A copy of the Review (Hindi English versions) by the Government on the working of the Mormugao Dock Labour Board for the year 1986-87.

[Placed in Library. See No. LT-5400/87]

Notification under Government Savings Bank Act and Government Savings Certificate Act and Annual Report of and Review on Life Insurance Corporation of India for the year ending 3-3-1987.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY): I beg to lay on the Table—

(1) A copy of the Post Office Savings Accounts (Second Amendment) Rules 1987 (Hindi and English versions) published in Notification No. G.S.R. 948(E) in Gazette of India dated the 2nd December, 1987 under sub-section (3) of section 15 of the Government Savings Bank Act 1973.

[Placed in Library. See No. LT-5408/87.]

(2) A copy of the Indira Vikas Patra (Fourth Amendment) Rules 1987 (Hindi and English versions) published in Notification No. G.S.R. 956(E) in Gazette of India dated the 3rd December, 1987 under sub-section (3) of sec-

(Shri Janardhana Poojary)

tion 12 of the Government Savings Certificate Act, 1959.

[Placed in Library. See No. LT-5409/87]

(3) (i) A copy of the Annual Report (Hindi and English versions) of the Life Insurance Corporation of India for the year ended the 31st March, 1987 under section 29 of the Life Insurance Corporation Act, 1956.

(ii) A statement (Hindi and English versions) regarding Review by the Government on the working of the Life Insurance Corporation of India for the year ended 31st March, 1987.

[Placed in Library. See No. LT-5410/87]

[Translation]

Annual report and review of Gandhi Smriti and Darshan Smriti for 1985-86, of National Council of Educational Research and Training, New Delhi for 1986-87, and of Sanskrit Sansthan, New Delhi for 1985-86 and Statement Re. Delay in laying the Papers etc.

THE MINISTER OF STATE IN THE DEPARTMENTS OF EDUCATION AND CULTURE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (SHRIMATI KRISHNA SAHI):
I beg to lay on the Table:—

(1) (i) A copy of the Annual Report (Hindi and English versions) of the Gandhi Smriti and Darshan Smriti for the year 1985-86 along with Audited Accounts.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the Gandhi Smriti and Darshan Samiti for the year 1985-86.

(2) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above.

[Placed in Library. See No. LT-5411/87]

(3) (i) A copy of the Annual Report (Hindi and English versions) of the National Council of Educational Research and Training, New Delhi for the year 1986-87.

(ii) A statement (Hindi and English versions) regarding Review by the Government on the working of the National Council of Educational Research and Training, New Delhi, for the year 1986-87.

[Placed in Library. See No. LT-5412/87]

(4) (i) A copy of the Annual Report (Hindi and English versions) of the Rashtriya Sanskrit Sansthan, New Delhi, for the year 1985-86.

(ii) A copy of the Annual Accounts (Hindi and English versions) of the Rashtriya Sanskrit Sansthan, New Delhi, for the year 1985-86 together with Audit Report thereon.

(iii) A statement (Hindi and English versions) regarding Review by the Government on the working of the Rashtriya Sanskrit Sansthan, New Delhi, for the year 1985-86.

[Placed in Library. See No. LT-5413/87]

(5) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (4) above.

[Placed in Library. See No. LT-5413/87]

(6) (i) A copy of the Annual Report (Hindi and English versions) of the Indian Institute of Management, Bangalore, for the year 1986-87.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the Indian Institute of Management, Bangalore, for the year 1986-87.

[Placed in Library. See No. LT-5414/87.]

(7) A copy of the Annual Accounts (Hindi and English versions) of the Motilal Nehru Regional Engineering College Allahabad, for the year 1986-87 together with Audit Report thereon.

[Placed in Library. See No. LT-5415/87.]

[English]

Annual Report of and Review on National Institute of Immunology for 1986-87

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI SHEILA DIKSHIT): On behalf of Shri K. R. Narayanan, I beg to lay on the Table—

(1) A copy of the Annual Report (Hindi and English versions) of the National Institute of Immunology, for the year 1986-87 along with Audited Accounts.

(2) A copy of the Review (Hindi and English versions) by the Government on the working of the National Institute of Immunology for the year 1986-87.

[Placed in Library. See No. LT-5416/87.]

Annual Report of and Review on Central Institute of Hand Tools, Jalandhar for 1986-87 and a statement concerning reply to Starred Question No. 461 re. industries established in backward area.

THE MINISTER OF STATE IN THE DEPARTMENT OF INDUSTRIAL DEVELOPMENT IN THE MINISTRY OF INDUSTRY (SHRI M. ARUNACHALAM): I beg to lay on the Table—

(1) (i) A copy of the Annual Report (Hindi and English versions) of the Central Institute of Hand Tools, Jalandhar, for the year 1986-87 along with audited accounts.

(ii) A statement (Hindi and English versions) regarding Review by the Government on the working of the Central Institute of Hand Tools, Jalandhar, for the year 1986-87.

[Placed in Library. See No. LT-5417/87.]

(2) A statement (Hindi and English versions) correcting the reply given on the 8th December, 1987 to Starred Question No. 461 by Shri Parasram Bhardwaj regarding Industries established in backward areas.

[Placed in Library. See No. LT-5418/87.]

Review on and Annual Report of Tea Trading Corporation of India for 1985-86 and Annual Report and Accounts of and Review on Indian Institute of Packaging for 1986-87 etc.

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI P. R. DAS MUNSHI): I beg to lay on the Table—

(1) A copy each of the following papers (Hindi and English versions)

[Shri P. R. Das Munshi]

under sub-section (1) of section 619A of the Companies Act, 1956:—

(i) Review by the Government on the working of the Tea Trading Corporation of India Limited for the year 1985-86.

(ii) Annual Report of the Tea Trading Corporation of India Limited for the year 1985-86 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5419/87.]

(2) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above

[Placed in Library. See No. LT-5419/87.]

(3) (i) A copy of the Annual Report (Hindi and English versions) of the Indian Institute of packaging for the year 1986-87 along with Audited Accounts.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the Indian Institute of Packaging for the year 1986-87.

[Placed in Library. See No. LT-5420/87.]

(4) A copy of the Annual Accounts (Hindi and English versions) of the Cardamom Board, Cochin, for the period from 1st April, 1986 to 25th February, 1987 together with Audit Report thereon.

[Placed in Library. See No. LT-5421/87.]

Review on and Annual Report of Goa Shipyard Ltd. for 1986-87, of Hindustan Aeronautics Ltd., for 1986-87 etc.

THE MINISTER OF STATE IN THE DEPARTMENT OF DEFENCE PRODUCTION AND SUPPLIES IN THE MINISTRY OF DEFENCE (SHRI

SHIVRAJ V. PATIL): I beg to lay on the Table—

(1) A copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:—

(a) (i) A statement regarding Review by the Government on the working of the Goa Shipyard Limited, for the year 1986-87.

(ii) Annual Report of the Goa Shipyard Limited for the year 1986-87 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5422/87.]

(b) (i) A statement regarding Review by the Government on the working of the Hindustan Aeronautics Limited for the year 1986-87.

(ii) Annual Report of the Hindustan Aeronautics Limited for the year 1986-87 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5423/87.]

(c) (i) A statement regarding Review by the Government on the working of the Mazagon Dock Limited for the year 1986-87.

(ii) Annual Report of the Mazagon Dock Limited for the year 1986-87 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5424/87.]

(d) (i) A statement regarding Review by the Government on the working of the Bharat Dynamics Limited for the year 1986-87.

(ii) Annual Report of the Bharat Dynamics Limited for the year 1986-87 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5425/87.]

(e) (i) A statement regarding Review by the Government on the working of the Mishra Dhatu Nigam Limited for the year 1986-87.

11.08 hrs.

MESSAGE FROM RAJYA SABHA

[English]

SECRETARY-GENERAL: Sir, I have to report the following message received from the Secretary-General of Rajya Sabha:—

(ii) Annual Report of the Mishra Dhatu Nigam Limited for the year 1986-87 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5426/87.]

(2) (i) A copy of the Annual Report (Hindi and English versions) of the Institute for Defence Studies and Analyses New Delhi for the year 1986-87 along with Audited Accounts.

"In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Appropriation (No. 5) Bill, 1987, which was passed by the Lok Sabha at its sitting held on the 7th December, 1987, and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill."

(ii) A statement (Hindi and English versions) regarding Review by the Government on the working of the Institute for Defence Studies and Analyses, New Delhi, for the year 1986-87.

[Placed in Library. See No. LT-5427/87].

11.09 hrs.

STATEMENT RE. AGREEMENT BETWEEN GENERAL SECRETARY GORBACHOV OF USSR AND PRESIDENT REAGAN OF USA ON ELIMINATION OF LAND-BASED INTERMEDIATE NUCLEAR MISSILES

Statement correcting reply to Unstarred Question No. 4472 re. occupation of government accommodation by MPs/ex-MPs.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF URBAN DEVELOPMENT (SHRI DALBIR SINGH): I beg to lay on the Table a statement (Hindi and English versions) (i) correcting the reply given on 7th December, 1987 to Unstarred Question No. 4472 by Shri Manvendra Singh regarding occupation of Government accommodation by MPs/ ex-MPs and (ii) giving reasons for delay in correcting the reply.

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI K. NATWAR SINGH): On 9-12-1987, PM made a statement in both the House of Parliament on the signing in Washington on 18-12-1987, of the INF Treaty between General Secretary Gorbachov and President Reagan. In response to requests for certain clarification in the Rajya Sabha, PM assured the House that a comprehensive statement would be made shortly. I am making this statement in fulfilment of that assurance.

[Placed in Library. See No. LT-5407/87.]

The Treaty provides for the elimination of all land-based intermediate and short-range nuclear missiles having a range between 500—5500 kms, and deployed by the two sides.

[Shri K. Natwar Singh]

anywhere on the globe. The Treaty further prohibits the parties from producing these missiles in the future. It specifies that neither party shall produce or flight-test any intermediate or short-range missiles or produce any stages or launchers of such missiles.

The intermediate range missile systems are to be eliminated in two phases over three years and the shorter range systems within a single 18-month period. The intermediate range missile systems covered by the Treaty for elimination are the US Pershing-II and Ground Launched Cruise Missiles and the Soviet SS-20, SS-4, and SS-5 missiles. The shorter range missile systems covered are the US Pershing-1A and the Soviet SS-12 and SS-23 missiles. The Treaty provides for specific commitment and procedures for the elimination of missiles, launchers, support structures and support equipment.

The Treaty is of an unlimited duration. However, a party may withdraw from the Treaty if it decides that extraordinary events related to the Treaty have jeopardised its over-riding interests.

An unprecedented feature of the Treaty is its elaborate provisions for verification including on-site inspections, in order to monitor compliance with it. A separate Protocol to the Treaty sets forth the procedure for conducting agreed on-site inspections, including short notice inspections and continuous monitoring.

First of all, in order to verify the initial exchange of data on the specifications and locations of the missiles, the two sides have the right to conduct on-site inspections of agreed locations listed in the Memorandum of Understanding, within three months after the Treaty enters into force.

Secondly, there is a provision for the verification by the two sides of the destruction of missiles and launchers at the

specified sites where they would be collected for elimination.

Thirdly, after the missiles, launchers, equipment and support facilities are eliminated, the parties have the right to conduct on-site inspections to observe that the prohibited activities have actually stopped.

Fourthly, the Treaty provides for both sides to establish a system of resident inspectors, continuously to monitor missile facilities on each other's territory in order to ensure that these facilities are not performing any INF-related role. The Treaty identifies for monitoring sites where intermediate range missiles are now being produced as well as those where long range missiles are produced currently but which can also be utilised for producing intermediate range missiles.

For 13 years after the Treaty enters into force, the United States and USSR are entitled to conduct a specified number of short notice inspections per year at agreed locations. National Technical Means (NTM) of verification will continue to be used as the principal method of monitoring compliance with the Treaty. The two parties have undertaken not to interfere with each other's National Technical Means of verification and to take specific steps to enhance each other's ability to monitor by NTM.

The talks between USA and USSR to limit their nuclear forces had begun in Geneva in December, 1981. It remained suspended after November, 1983 when USSR withdrew from these negotiations following the decision by the United States and NATO to deploy Pershing-II and Ground Based Cruise Missiles in Western Europe. The negotiations were resumed in January, 1985 following an agreement reached between the Foreign Ministers of the two countries. The objective of the negotiations as agreed between the two Foreign Minister was to "work out effective agreements aimed at preventing an arms race in space and

terminating it on earth, at limiting and reducing nuclear arms...". Further, the two sides expressed the belief that the negotiations "should lead to the complete elimination of nuclear arms everywhere."

At the Summit meeting between US and USSR in Reykjavik in October 1986, the two leaders came very close to a far-reaching agreement that could have paved the way for complete elimination of all nuclear weapons. However, the agreement could not be clinched because of the unwillingness on the part of the United States to accept restrictions on its Strategic Defence Initiative (SDI) Programme and the insistence by USSR that its Reykjavik offer was a package deal that could not be discussed piecemeal.

Prospects for an agreement on Intermediate Nuclear Forces improved after USSR announced, in February this year, that it was willing to delink negotiations on INF from its demand for curbs on the SDI programme.

USSR further agreed to drop its earlier demand that the nuclear arsenals of UK and France be included within the scope of these negotiations. The United States subsequently suggested that shorter-range missiles should also be covered by the Treaty. USSR agreed to this demand in July 1987. Finally, USSR also agreed to extend the coverage of the prohibition from Europe to the whole world, as preferred by the United States in an attempt to allay the misgivings of some countries friendly to it, that an agreement on Euro-missiles would mean a deflection of pressure elsewhere. With this "global double zero" offer by USSR, the way to an INF Treaty was cleared, though a number of problems, particularly those relating to

verification and the pace and time-frame of destruction, remained to be resolved. In the detailed negotiations, both sides accommodated each other's concerns and made the concessions necessary for reaching a final agreement on the Treaty.

The significance of the Treaty lies in the fact that for the first time, there will be an actual reduction in the number of nuclear weapons deployed and the elimination of one category of nuclear weapons altogether. Earlier agreements between the two Super Powers had merely set limits or ceilings to the expansion of the existing arsenals of nuclear weapons. Moreover, the Treaty demonstrates that given the political will, doctrinaire considerations such as the imperative of "nuclear deterrence" or technical problems such as verification, need not stand in the way of nuclear disarmament. Though the Treaty covers a very limited number of nuclear warheads—about 2,000 out of the total of almost 58,000 in the possession of the Super Powers—its political and psychological significance transcends the number. It opens up prospects for undertaking more far-reaching measures of nuclear disarmament. Finally, the improvement in the relations between the two Super Powers that this Treaty reflects, cannot but have a positive impact on the general climate of international relations and security.

The INF Treaty is also significant for the unprecedented verification procedures provided in it. These provisions will go a long way towards restoring confidence between the two Super Powers and paving the way for concluding agreements on the elimination of other categories of nuclear weapons. They also constitute an important breakthrough in disarmament negotiations in general.

As the House is aware, ever since Independence, India has attached great importance to the objective of

[Shri K. Natwar Singh]

nuclear disarmament. This has been a major plank of our foreign policy. As early as in 1954, Prime Minister Jawaharlal Nehru gave a call for the banning of nuclear weapon tests. Since then we have been one of the staunchest proponents of a Comprehensive Test Ban Treaty (CTBT). We believe that this would be the most important step towards curbing the qualitative refinement and continuous modernisation of nuclear arsenals. India played a leading role in getting a resolution adopted by the General Assembly in 1965, declaring the use of nuclear weapon, as a crime against humanity. We have also taken the initiative in putting forward a number of proposals for halting the nuclear arms race and preventing nuclear war. These proposals, which include non-use of, and freeze on nuclear weapons, have been adopted year after year in the form of resolutions by the General Assembly of the United Nations, by an overwhelming majority.

We therefore regard the INF Treaty as a vindication of our stand on nuclear disarmament. We can rightly claim that the efforts made by us together with other nonaligned and neutral countries and the peace loving people all over the world, to mobilise international opinion in favour of nuclear disarmament, has played no small role in bringing about this Treaty.

We have therefore, both on our own and as a member of the Six Nation Initiative, welcomed this momentous development. We did so immediately after an agreement, in principle, was reached on the subject following a meeting between the US Secretary of State and the Soviet Foreign Minister in Washington on September 18, 1987. A little later, we joined the leaders of the Six Nation Initiative in characterising this agreement as "a historic first step in the direction of our common goal namely, total nuclear disarmament. Further, in a joint message to President Reagan and General Secretary Gorbachev on December 7, prior to the Summit Meeting, the leaders of the Six expressed

the hope that the Summit Meeting would yield a spirit in which much more far-reaching disarmament agreements could quickly be elaborated and concluded.

The most important question before us now is whether this Treaty will be followed by more significant reduction of nuclear weapons leading to their complete elimination. Prospects for an agreement on a 50 per cent reduction of strategic nuclear weapons accompanied by an extension of the ABM Treaty for an agreed period of time in order to provide stability, are claimed to be good. However, even if this is achieved, it would still leave large arsenals of nuclear weapons in the possession of the nuclear weapons States.

In considering the long term impact of the INF Treaty we cannot but be concerned by some of the recent trends. While the Treaty eliminates one category of nuclear weapons, the nuclear arms race shows no sign of receding. Efforts are continuing to develop the space arm of the nuclear war-fighting machinery. At the same time, new offensive nuclear weapons are being developed and refined. The technological arms race is proceeding unabated, covering both nuclear and conventional weapons.

We have also to keep in mind that this modest though historic step towards nuclear disarmament has provoked shrill, nuclear weapon States like the United Kingdom and France, while welcoming the INF Treaty, have stressed their determination to retain their respective independent "Nuclear Deterrent."

It is therefore clear that the journey towards the goal of complete elimination of nuclear weapons is going

to be a long and arduous one. But there is no alternative to persevering with this journey with renewed vigour and faith. I would like to assure the House that India will continue to pursue through all available means, our long-cherished goal of a nuclear-free world. We will continue to work tirelessly to achieve this objective through the six Nation Initiative, the forthcoming Third Special Session of the UN General Assembly devoted to Disarmament and the Nonaligned Movement.

While working for nuclear disarmament, we have also to think about the management of a nuclear-free society. That is why in his congratulatory message to General Secretary Gorbachev, our Prime Minister stated that the world needs changes of attitude policies and institutions to usher in a nuclear-free and non-violent world, as enunciated in the Delhi Declaration. He then called upon all nations—nuclear and non-nuclear—to engage in a serious dialogue for this purpose.

11.20 hrs.

ALCOCK ASHDOWN COMPANY LIMITED (ACQUISITION OF UNDERTAKINGS) AMENDMENT BILL*

[English]

THE MINISTER OF INDUSTRY (SHRI J. VENGALRAO): I beg to move for leave to introduce a Bill further to amend the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973".

The motion was adopted.

SHRI J. VENGAL RAO: I introduce the Bill.

11.21 hrs.

COMMISSION OF SATI (PREVENTION) BILL*

[English]

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT AND MINISTER OF HEALTH AND FAMILY WELFARE (SHRI P. V. NARASIMHA RAO): I beg to move for leave to introduce a Bill to provide for the more effective prevention of the commission of sati and its glorification and for matters connected therewith or incidental thereto.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the more effective prevention of the commission of sati and its glorification and for matters connected therewith or incidental thereto".

The motion was adopted.

SHRI P. V. NARASIMHA RAO: I introduce the Bill.

[English]

KUMARI MAMATA BANERJEE (Jadavpur): Speaker Sir, Speaker Sir, please allow one minute.

SHRI ANANDA GOPAL MUKHOPADHYAY (Asansol): A serious situation has been developing in West Bengal Sir.

KUMARI MAMATA BANERJEE Sir, 75,000 workers of public sector units today have gone on strike.

(Interruptions)

SHRI ANANDA GOPAL MUKHOPADHYAY: The employees of all public sector units in West Bengal have gone

[Shri Ananda Gopal Mukhopadhyaya]

on strike. (*Interruptions*) Sir, there is a complete discrimination.

(*Interruptions*)

MR. SPEAKER: Give me something in writing.

SHRI ANANDA GOPAL MUKHOPADHYAYA: This is a very serious situation... (*Interruptions*)

MR. SPEAKER: What can I do?

(*Interruptions*)

SHRI BASUDEV ACHARIA (Bankura): The Public sector workers in West Bengal are being discriminated. (*Interruptions*)

MR. SPEAKER: How can they be discriminated?

(*Interruptions*)

MR. SPEAKER: Please sit down.

SHRI BASUDEV ACHARIA: You allow a discussion Sir.

(*Interruptions*)

MR. SPEAKER: Please sit down.

(*Interruptions*)

[*Translation*]

MR. SPEAKER: You are a leader, what are you doing? Are you not ashamed of it?

(*Interruptions*)

[*English*]

MR. SPEAKER: Sit down. I am on my legs. Sit down, I am on my legs. Sit down... (*Interruptions*) I am on my legs. Sit down. What are you doing? Have some decency.

(*Interruptions*)

MR. SPEAKER: You can give me something. Sit down.

(*Interruptions*)

11.25 hrs.

QUESTION OF PRIVILEGE AGAINST SHRI H. K. L. BHAGAT, MINISTER

OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES FOR HIS ALLEGEDLY INTIMIDATING SHRI RAM DHAN AND SHRI RAJ KUMAR RAI AND SUPPRESSING THEIR FREEDOM OF SPEECH THROUGH WHICH ISSUED TO THEM IN THE HOUSE ON 17-11-1987.

[*English*]

MR. SPEAKER: Sarvashri Ram Dhan, K. P. Unnikrishnan, S Jaipal Reddy, Prof. Madhu Dandavate and Shri Vidya Charan Shukla gave notices of question of breach of privilege against Shri H. K. L. Bhagat Minister of Parliamentary Affairs, for allegedly intimidating Sarvashri Ram Dhan and Raj Kumar Rai and suppressing their freedom of speech in the House by issuing a whip to them in the House on 17 November, 1987, seeking my consent under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha to raise the matter in the House.

Having considered the points raised by the Members and the comments of the Minister of Parliamentary Affairs thereon, I give my consent to the raising of the question of privilege under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha.

Shri Ram Dhan may now ask for leave of the House.

[*Translation*]

SHRI RAM DHAN (Lalganj) You can directly refer it to the Privileges Committee.

[*English*]

MR. SPEAKER: You go through the rule, I have done it according to the rule. You have a Committee, so you move. You sought my consent. And I, after considering all the aspects, have given my permission to raise this matter on the floor of the House.

SHRI RAM DHAN: I beg to seek leave of the House to raise a question of privilege against Shri H. K. L. Bhagat, Minister of Parliamentary Affairs.

MR. SPEAKER: I hope, there is no objection to it. So, you proceed with it.

(Interruptions)

SHRI A. CHARLES (Trivandrum): I would like to know whether he is still continuing in the Congress (I) Party... *(Interruptions)*

PROF. MADHU DANDAVATE (Rajapur): That is nothing to do with Congress(I). It is only a question of the membership of the House... *(Interruptions)*

MR. SPEAKER: This motion does not consider anything else except privilege.

(Interruptions)

SHRI RAM DHAN: I have gone through the "explanation"...

MR. SPEAKER: Mr. Ram Dhan, you will say that the matter regarding issue of whip to Sarvashri Ram Dhan and Raj Kumar Rai by the Minister of Parliamentary Affairs in the House on 17th of November, 1987 be referred to the Committee on Privileges...

PROF. MADHU DANDAVATE: Procedurally you are wrong. Let me tell you the procedure. You have allowed him to raise a question of privilege...

MR. SPEAKER: He has to raise it..

PROF. MADHU DANDAVATE: He does not want to move the motion...

MR. SPEAKER: O.K.

PROF. MADHU DANDAVATE: He wants to request you that you in your power should straightaway refer the matter to the Privileges

Committee. And he has the right to make that submission... *(Interruptions)*

SHRI RAM DHAN: I have gone through the "explanation" of Shri Bhagat. He has explained nothing.

The "fracas" in the Lok Sabha really arose out of the unparliamentary remarks of Shri K. K. Tewari and his "menacing advance" in my direction. There was no question of any ruling by you. Every remark of the Chair is not a ruling. Even after a considered written ruling has been given by the Chair, it is open to Members to appeal for a review to seek clarification. Many instances of the Chair reconsidering its observations can be cited.

The main points to be considered are:

1. Is there anything in the Constitution and Rules of Procedure which gives Party Whips the right to curb members' freedom of speech? No. There is nothing in the Constitution and the rules which gives such a right to Chief Whips of parties. On the contrary Article 105 ensures members' right of freedom of speech.

2. There is no mention of the words "Party" and "Whip" in the Constitution. The 52nd Amendment, and the Tenth Schedule which it added, define the words "House", "legislature party", "original whip". It speaks of any person or authority authorised by the Party "in this behalf", that is, in relation to issuing direction about voting or abstaining from voting. Even if it is conceded that the Whips are the aforesaid authorities, their jurisdiction is limited to voting in a division and cannot be extended to an undefined power to encroach on rights conferred on members by the Constitution and Rules of Procedure.

3. Shri H. K. L. Bhagat has not stated in relation to what division he had issued the Whip.

[Shri Ram Dhan]

There was no motion before the House and no division in the offing. On matters of privileges, contempt and discipline there are no whips.

(4) The power of disciplining Members is vested in the speaker. The Leader of the House or Chief Whip cannot even move a motion for a Member's suspension till the speaker has named a Member for disorderly behaviour.

(5) Shri H. K. L. Bhagat has mentioned lists of Members given by Whips to the Chair to help him regulate the debate. This is for convenience only. This does not give the Whips right to shut out dissenting opinions. In fact, this is what is being done since the previous session. We should follow the example of the House of Commons. Winston Churchill often dissented from the Tory Party Line. Yet when he and his fellow dissidents wished to speak they could easily "catch the Speaker's eye". Here, Members of the Ruling Party, who do not agree with the official line on any Bill or motion, are being denied the opportunity to speak by the Chief Whip. There is no warrant for the exercise of such a dictatorship in the House.

(6) Since the whips are issued to ensure the presence of Members at divisions which are likely to materialise, the whips are necessarily directed to all the Members of the party without exception. To issue whips to a few individuals on a matter which does not involve vote or division, is to reduce the whips to mockery.

(7) Shri H. K. L. Bhagat has given quotations torn out of context. Thus, he has deliberately

skipped over the key exchange involving Shri K. K. Tewari and the speaker. Shri Arif Mohammad Khan and some of us heard some unprintable remarks uttered by Shri K. K. Tewari about me and also saw the menacing steps he took in my direction. The Speaker did not hear the words spoken by Shri K. K. Tewari about me because of the noise, but he saw Shri K. K. Tewari's action. At page 4362 of the report of the proceedings (17th November 1987), the following exchange has been shown to have taken place which Shri H. K. L. Bhagat has ignored:

"Mr. Speaker: I could not hear what he was saying. But I was seeing that there was menacing step towards him...

(Interruptions)

PROF. K. K. TEWARI: I did not take menacing step. I was going out and merely pleading with him. 'If you hold these views, it is no use paralysing the proceedings of House. Please go and sit on that side.' I was merely walking . . . (Interruptions).

MR. SPEAKER: Whosoever does it, it is the same . . .

(Interruptions)

PROF. K. K. TEWARI: When they all came, you remember, when hon. Members from the Opposition . . ."

At this point, Shri H. K. L. Bhagat could have intervened and administered rebuke to Shri K. K. Tewari. Instead of doing this, he issued his ridiculous whip in the House and announced it himself.

(8) The entire record will show that I was not defying the Chair. I

got up to offer an explanation with the permission of the Speaker. (pp. 4368-69). In fact, after I spoke, the Chair accepted my convention that I had used no unparliamentary expressions in the House (p. 4376). The Speaker had also admitted he did observe that Shri K. K. Tewari had "advanced menacingly" in my direction. Later he accepted Shri K. K. Tewari's explanation that he did not mean to threaten anybody (p. 4380).

Some Members were not satisfied with this. They insisted that Shri K. K. Tewari be made to apologise as had been done in the case of Shri Arif Mohammed Khan earlier in the day despite his explanations and that the Speaker should not apply a different standard in the case of Shri K. K. Tewari (pp. 4384-4385). Shri Indrajit Gupta, several other opposition leaders and some Congress Members insisted that Shri K. K. Tewari be asked to express regret. At this stage, the whole controversy could have been resolved if Shri H. K. L. Bhagat had asked Shri K. K. Tewari to apologise as Shri Indrajit Gupta had suggested (at page 4398). Shri Gupta said:

"Shri Indrajit Gupta: Mr. Speaker, Sir, will you permit me, Sir, for one minute to take Mr. Tewari's place? That means, please imagine that I am Mr. Tewari. I am not joking. I am speaking as follows:

"Although I had no intention of threatening Shri Ram Dhan, it seems I moved in a manner which gave you, Mr. Speaker, the impression that I had moved in a threatening manner. For giving you this impression, I express my regret."

This is the best thing he can do with grace. The whole house will

be happy to accept it. What is wrong with it?"

Throughout this debate I had neither defied the Chair nor violated any rule. In any case, the power to discipline members in the House vests in the Chair and not in the Whips. H. K. L. Bhagat has clearly abused his office by issuing bogus whips with the sole object of intimidating and overriding me and protecting members like K. K. Tewari who adopted a menacing posture towards me. Finally, I refer to Kaul's and Shakdhar's (*Practice and Procedure of parliament*, Third Edition, pp 118-120) and May's *Parliamentary Practice*, 20th Edition, Page 254 and there elaboration of the expression whips and its connection with divisions in the House. Whips cannot be issued to tell members that they abstain from drinking coffee or from wearing caps. Nor can whip be issued to compel members to wear polyester safari suits!

It has been declared by the Supreme Court in the case of Tej Kiran B. Sanjira Reddy that "it is the essence of Parliamentary system of Government that peoples representatives should be free to express themselves without fear of legal consequences. What they say is only subject to the discipline of the rules of Parliament the good sense of the members and the control of proceedings by the Speaker.

There are no rules framed by the House relating to powers and functions of whips nor even the same even refer to whips as the House can have nothing to do with the whips, which only concern internal affairs of parties.

The Hon'ble Speaker has the sole executive authority to regulate the procedure and control the proceedings of the House, though the ultimate authority is the House itself (May—page 442) and (Kaul-Shakdher—page 92). None else can control

[Shri Ram Dhan]

or regulate the procedure or the proceedings in the House and no law or rule confers such power on a whip.

'Whip' has been defined by Chambers Dictionary (1949 edition) as "one who enforces the attendance of a political party" while Oxford's sporter dictionary (second edition) defines it as "to summon to attend, as the members of a party for a division in Parliament". Under no law or authority can a whip arrogate to himself the power to discipline a member and that too, inside the House in the matter of proceedings in the House, where the sole authority is the Hon'ble Speaker. Decorum in the House cannot be brought about on the dictates of Whip on other matters.

In my submission, the reply of Shri Bhagat has only aggravated the contempt he has committed, by his claim and exercise of authority over members of his party to silence them in expressing their views inside the House and in the presence of the Hon'ble Speaker. It was a clear attempt by him to deny me my freedom of speech inside the House. If Whips can issue dictates to members inside the House to speak in a particular manner or not to speak, then the constitutional rights of members will be reduced to a mockery.

In the circumstances, I earnestly request you to send the matter to the Privileges Committee for its consideration and decision.

(Interruptions)

PROF. MADHU DANDAVATE: I have already given a notice, Sir.

(Interruptions)

MR. SPEAKER: Prof. Tewary, I will give you a chance.

PROF. K. K. TEWARY (Buxer): Sir, it is because my name has been dragged again.

[Translation]

MR. SPEAKER: Tewaryji, I will call you, then you speak.

(Interruptions)

[English]

PROF. MADHU DANDAVATE: Sir, I have given my name for submission.

MR. SPEAKER: Yes, I will come to you. Mr. Unnikrishnan is not here. Now, Prof. Dandavate may speak.

PROF. MADHU DANDAVATE: Sir, with great respect I would point out to you at the very outset that ever since the founding of the Parliament, for the first time the question of privilege arising out of the action of a Chief Whip is coming before the House.

I would request you very humbly to apply your mind to one crucial issue round which the entire question of privilege is pivoted.

MR. SPEAKER: That is why I put it to you.

PROF. MADHU DANDAVATE: Yes all are peripheral issues, but one central theme.

Sir, the Constitution of the country under Article 19(1)(a) gives us the freedom of speech in the country as a Fundamental Right. But even that right is circumscribed by Article 19(2) and reasonable restrictions can be placed on the Fundamental Right of freedom that can be enjoyed by the citizens. Sir, I would like to point out to you that the freedom of speech guaranteed to a Member of Parliament is qualitatively different from the freedom of speech that is assured to a citizen under Chapter III of Fundamental Rights of the Constitution. While Article 19(1)(a) gives us freedom of speech subject to reasonable restrictions, I would like to point out to you, Sir, that the freedom of speech that is guaranteed to us under Article 105 of the Constitution is more absolute and it is said—again remember that Article

105 had the title, "Powers, Privileges and Amenities of Parliament and its Members". Sir, it has been ruled long time back that in a Constitution even the caption and the title of an Article conveys a lot as far as the interpretation of the Constitution Articles is concerned.

Remember article 105 has the title "Powers, Privileges and Immunities of Parliament and its Members". It says, subject to provisions of this Constitution and to the rules and standing orders regarding procedure of Parliament, there shall be freedom of speech in Parliament.

THE MINISTER OF STATE IN THE DEPARTMENT OF DEFENCE PRODUCTION AND SUPPLIES IN THE MINISTRY OF DEFENCE (SHRI SHIVRAJ V. PATIL): Are you interpreting?

PROF. MADHU DANDAVATE: Yes, I am interpreting. Please have little patience, as the ex-Speaker of Maharashtra Assembly.

SHRI SHIVRAJ V. PATIL: This is very unfair. This is not called for.

PROF. MADHU DANDAVATE: I am paying respect to you. I am respecting your opinion. He was the former Speaker, Sir.

Unfortunately, in this House even praises are misunderstood. What to do?

SHRI VIJAY N. PATIL: It is sarcastic.

PROF. MADHU DANDAVATE: No. He does not take it that way. Even if it is sarcastic, it is permitted in the House.

PROF. K. K. TEWARY: It is a jibe and gibe. (*Interruptions.*)

PROF. MADHU DANDAVATE: It does not matter. After all, I am not a professor of English and my

level would not be the level of Prof. Tewary.

MR. SPEAKER: Professor Sir, you do not know English !

PROF. MADHU DANDAVATE: We speak in broken English. How can it be so sophisticated? And the scenario will completely change when he speaks.

MR. SPEAKER: One professor to another?

PROF. MADHU DANDAVATE: The freedom of speech that is guaranteed to us under article 105 is only subject to the procedures laid down in the Constitution, and then whatever has been laid down in various rules of procedure and standing orders. As far as the Constitution is concerned, there is article 121 which says that no Member shall discuss the conduct of the judges of the Supreme Court and the High Court. That is one restriction that is put.

Then, rule 352 of the Rules of Procedure says that a Member while speaking shall not—I need not elaborate it because we have implemented that—refer to any matter of fact on which a judicial decision is pending etc. etc. And then, he shall not reflect upon the conduct of persons in high office. Only substantive motion can be given and I have also utilised that. I have given three substantive motions which you have allowed me and all that. So, rule 352 also imposes certain restrictions on the freedom of speech. But beyond that, there is no restriction on the freedom of speech enjoyed by the Members of Parliament under article 105.

Sir, here comes the question of whip. As far as whip is concerned, there is only one oblique

[Prof. Madhu Dandavate]

reference to whip only in 10th Schedule of the Constitution. After the Anti-Defection Bill has been adopted, this relevant portion says—

(ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention;

It is very clear that as far as the ambit of the powers of whip is concerned, it is also related to voting or abstention. When a direction is given through a whip—the word “whip” has not been used—but as direction by the party. That means, when a whip is given for a voting in a particular manner then voting against or abstention, that is the violation. And that again, if it is condoned by the Legislative party, in that case also, the Speaker cannot disqualify him. Only when they send him the copy of the whip with the resolution that because of the violation, it has not been condoned and action has been taken, then only, you are within your powers to declare that the Member loses the membership of Parliament. So, it is very clear. As far as the Constitution is concerned, there is article 121. As far as the restrictions imposed on the freedom of speech guaranteed under article 105 are concerned, only rule 352 is there. As a result of that, we find that freedom that we enjoy in this House is relatively unfettered as compared even to the freedom of speech that is enjoyed by the citizen outside, under

the Fundamental Rights guaranteed by the Constitution. The framers of the Constitution and the framer of the Rules of Procedure were more careful about this discretion because they wanted that there are certain immunities to be enjoyed by the Members of Parliament. There are certain privileges to be enjoyed by Parliament. So, the freedom which we enjoy in this House is not only a fundamental right of freedom of speech enjoyed by the citizens outside but it is a special privilege and a special right that we are accruing by becoming the Member of this House and I say that this particular right has been enforced upon us.

If you look to the Rules of Procedure in the House of Commons, they go a step further. Even the voting has not been brought in the ambit of the whip. There, they say.— I can point to you the books in which the working of the whip has been quoted in a number of parliamentary procedure book that only presence in the House when important matters are coming, that is all the ambit of the Whip in the House of Commons. Here we have gone a step further and voting has also been brought into picture for, voting or abstaining, against the direction of the Whip, can be acted upon. These are the only restrictions.

Let me make it very clear that according to my submission, my interpretation of Article 105 of the Constitution makes it very clear that as far as the freedom that we enjoy in the House is concerned, it is unfettered freedom and unless voting and abstention is involved, the Whip does not operate at all. The Whip was given to Mr. Ram Dhan and Mr. Raj Kumar Rai in writing in this House. When he was speaking, our Parliamentary Minister, on the

floor said that "I have already given the Whip to you Mr. Ram Dhan and remember that if you violate it, you will be doing it knowingly." That means, threatening him about the freedom of speech. What he said orally in the House and what he gave to him in writing through his deputy; is a clear restriction on the freedom of speech of Mr. Ram Dhan and Mr. Raj Kumar Rai. Therefore, the provisions of Article 105 and the privileges given by Article 105 have been assaulted. Therefore, it is a clear contempt of the House deliberately indulged in and deliberate contempt of constitutional privilege. It is a special case of privilege. Therefore, without putting it to the House, you have the inherent power, excepting the Prima facie case, to straightway refer the entire matter to the Privilege Committee as you have rightly done in the case of Mr. Vidya Charan Shukla and in the past in a number of cases that has been done. Therefore, without throwing this responsibility by referring the matter to the Privilege Committee, you in your wisdom and in your ability and in your basic sense consider the prima facie case. You can straightway refer the matter to the Privileges Committee and set up the precedent for all times to come. We may go and you may go. But this House will exist and if its freedom of speech must exist. for that, refer it to the Privilege Committee.

Thank you for allowing me to speak.

MR. SPEAKER: Now Mr. Jaipal Reddy will speak. Professor, have you read this 225?

PROF. MADHU DANDAVATE: I have read everything.

MR. SPEAKER: O.K.

SHRI BHAGWAT JHA AZAD (Bhagalpur): You have not said anything on that.

PROF. MADHU DANDAVATE: I have touched 105. I have given everything in writing.

MR. SPEAKER: Also 226.

PROF. MADHU DANDAVATE: I need not repeat everything that I have given in writing. I thought that I must touch the crucial and the positive points. That is why, I referred to all of them.

MR. SPEAKER: If leave under Section 225 is granted, the House may consider the question and come to a decision. Now Mr. Jaipal Reddy.

PROF. MADHU DANDAVATE: I have pointed out the precedent. Rightly in your own power and rightly in your wisdom, you can refer straightway to the Privilege Committee.

MR. SPEAKER: So far as the House is supreme, that is an enabling power I know there is. But when the House is supreme, then I leave it to your wisdom.

PROF. MADHU DANDAVATE: House is supreme and you have the discretion.

MR. SPEAKER: Why should I do? Then I leave it to you.

SHRI S. JAIPAL REDDY (Mahbubnagar): I thank you for this opportunity. This is an extraordinary question because it concerns the most scared part of the supreme institution of our country namely, the Parliament.

As has been pointed out by Prof. Dandavateji the right to freedom of speech has been specially guaranteed under the Constitution—under Article 105 I need not read that at all. A Member of Parliament does not become less of a citizen on account of belonging to a party. As has been pointed out even the citizen of this country has been guaranteed full freedom of speech subject only to reasonable restrictions under Article 19 of the Constitution. This of course, does not violate by any stretch of imagination, to the reasonable restrictions

[Shri S. Jaipal Reddy]

What happened on that day was two Members of Parliament were sought to be reduced to the status of second-class citizens of this country. I am not on the point of special privileges enjoyed by Members of Parliament. They have been already dilated upon. This right is so fundamental to the proper working of this Institution. It should not be made subject to mercurial majority. It is too sacrosanct a proposition to be made subject to mercurial majorities in the House. Under Rule 227, as has been pointed out, you have inherent right to refer an issue to the Privileges Committee. I read Rule 227: It says:—

“Notwithstanding anything contained in these Rules, the Speaker may refer any question of privilege to the Committee of Privileges for examination, investigation or report.”

I don't think in the chequered history of Indian Parliament, there has ever arisen a more important question of breach of privilege than this. This question really needs to be delved into in all its aspects and dimensions. What happened on that day was, the whip was issued to two Members selectively. There was discrimination against two Members. It was not a whip issued to all the Members of the party.

Secondly, I received the reply of Mr. Bhagat. He contended that he asked the Members not to defy the rulings of the Speaker. I do not know whether every observation made by the Speaker in the course of a discussion on an issue could be treated as ruling, in the first place. What happened that day was, you were making your observations on various things sought by him, and others. At one stage, you were good enough to observe that you found Shri K. K. Tewary advancing menacingly towards Mr. Ram Dhan. Later on, after you heard the explanations

from both Mr. Tewary and Mr. Ram Dhan, you said that you are wanting to treat the whole thing as a closed chapter. I may bring to your notice that Mr. Ram Dhan had not withdrawn his objections to the alleged misconduct of Mr. Tewary. Mr. Ram Dhan, as an aggrieved person, was persisting with his serious objections to the misconduct of a Member towards him. So, therefore...

AN HON. MEMBER: Alleged...

12.00hrs.

SHRI S. JAIPAL REDDY: Alleged, all right. Therefore, there was no question of the ruling to be defied. In this House, it is, axiomatic that the right to freedom of speech is absolute, subject to the Directions of the Speaker—even the Rule 352, all restrictions, even the Article 121. The observance of these restrictions is to be regulated by the Speaker. It cannot be regulated by a whip. If the Speaker took objection to a particular observation of a Member on the ground that the observation infringed the Rules of Procedure or any article of the Constitution, it would be a different matter. But no Member, much less a Whip, can take objection in the form of a whip. He can take objection and bring the objection to the notice of the Speaker. But in this case he gave the whip and flaunted the whip in the House through an ostensible verbal threat. Even the anti-defection law which came into being two years back does not curb the freedom of speech. I may draw your attention the classic illustration of Mr. Arif Mohammad Khan. When Mr. Arif Mohammad Khan was a member of the Congress-I Parliamentary Party...

AN HON. MEMBER: He is not now?

SHRI S. JAIPAL REDDY:... Before he was liberated from it by expulsion, he expressed a particular viewpoint on the Muslim Women's Bill which ran counter to the official

view of the Congress-I Parliamentary Party. When it came to voting, he voted in accordance with the whip but when it came to expressing his opinion, he vigorously opposed it. What does this incident show? It shows that the right of freedom of speech of Members of the House is absolute. It can be circumscribed only by the ruling or objection of the Speaker and nobody else. (*Interruptions*) I, therefore, plead that this is not a matter to be put to the House. This is a matter whose merits are to be decided upon in the wisdom of the Speaker himself. I therefore, plead with you, Mr. Speaker, that under your inherent powers, you may refer the issue to the Privileges Committee for final elucidation of the subject.

MR. SPEAKER: Mr. B. R. Bhagat.

SHRI B. R. BHAGAT (Arrah): Mr. Speaker, Sir...

PROF. MADHU DANDAVATE: Has he also given a notice of privilege?

MR. SPEAKER: He has a right to speak.

SHRI B. R. BHAGAT: Do you want to prevent me from speaking? (*Interruptions*)

PROF. MADHU DANDAVATE: I only wanted to know whether you had given any notice of privilege.

SHRI B. R. BHAGAT: Hon. Member, Prof. Madhu Dandavate, said that this was a very unique occasion, this privilege arising out of the whip issued by the Minister for Parliamentary Affairs. But I would like to say that there is no occasion for a privilege here. The facts as stated and which I am going to produce will show this. If at all, the Minister for Parliamentary Affairs has only prevented or held the two hon. Members, Shri Ram Dhan and Shri Raj Kumar Rai, from committing breach of privilege or committing contempt

of House by challenging, questioning, criticising the Speaker's ruling. It was at that point of time the Minister for Parliamentary Affairs had done it. If they had done so, the House was well within its rights, the Speaker was well with his rights, to name the Member and punish the Member. I can quote certain portions. What was the point at which the written notice or written letter, as has been alleged, was sent to him? I will come to that later. But the point was, when he said Mr. Ram Dhan, and I am quoting from the proceedings:

[*Translation*]

"Mr. Speaker, what is happening. If nothing is done by you, the House will not be allowed to proceed like this."

[*English*]

What is this. He has crossed all limits.

[*Translation*]

Then he said "You change your ruling."

[*English*]

He challenged. There are many Members and even if he is a new Member, he knows that, in the House, Speaker's ruling is final. Speaker is not obliged to give any reason or anything. Everyday Members ask so many things in the debate. It is said that Speaker's ruling cannot be criticised; the Speaker's ruling cannot be objected; the Speaker's ruling cannot be opposed; the Speaker's ruling cannot be protested even. The only point is, as a very special case, Member can politely and respectfully ask the Chair for some clarification. He may seek that. But none of this was done.

(*Interruptions*)

SHRI B. R. BHAGAT: None of that was done.

(*Interruptions*)

MR. SPEAKER: / Order, order.

(Interruptions)

SHRI B. R. BHAGAT: None of these things happened.

[Translation]

MR. SPEAKER: You speak.

(Interruptions)

MR. SPEAKER: Do not do like this. Let him speak. First he was allowed to speak. Now let him also speak.

(Interruptions)

SHRI RAJ KUMAR RAI (Ghosi): Mr. Speaker Sir, I was also issued a whip. I should also be given a chance to speak

MR. SPEAKER: You shall also be called. Please sit down. We will not let the freedom of speech be curbed. You need not worry.

(Interruptions)

[English]

SHRI B. R. BHAGAT: The situation was very tense. I can only recall that you yourself, if I am quoting with all respect, appealed to the Hon. Member and I quote:—

[Translation]

Mr. Speaker said "Shri Ram Dhan you are a gentleman, you seem to be a perfect gentleman, you used to say 'I am a very good man.' Please resume your seat."

[English]

Now, Sir, this was the situation. If it had been allowed, if they had their way, they would have seen to it that the proceedings of the House was not conducted. There was neither a decorum; there was neither dignity; there was neither discipline in the House. This is the situation. These are the facts.

Now the hon. Member; I am surprised, he makes it a question of privilege against the Hon. Minister for Parliamentary Affairs. He did his duty. I come to that. What was his duty in a situation? What is the scheme and the structure of Whip system in a parliamentary system? Whether it is a direction of the Speaker, or the Rules of Business of the House or the directions or rulings given over a period, not only in this House but in all the Houses of Parliament including the House of Commons. They say that without the Whip, without the system of Whips, the proceedings of the House cannot be conducted in an orderly manner, in a manner of dignity and decorum. Even the Chambers English Dictionary defines Whip. According to it, the Whip is a system to enforce attendance and discipline in the House. And now the Hon. Member brings out this question, a very extraneous question if I may call it. I am surprised that even Professor Dandavate, who is the master in parliamentary procedure, is also taken in by that. Article 105 of the Constitution is a restriction on the Hon. Member and he has himself said that. There is nothing like it. The right is a Fundamental Right, but it is subject to reasonable restrictions provided by the Constitution itself. I need not go into it. Various judgements have defined what are the reasonable restrictions that apply to the freedom of speech. This matter is well known.

Another Hon. Member, Shri Jaipal Reddy, says with all disinformation on this issue. They know that they have no case; but they bring in other matters. He says for the Members, the right of speech is fundamental; but the right of speech in the House of a Member is absolute and fundamental. This is what he says. Then he quotes and contradicts himself that of course it is subject to the regulations and rules of procedures and directions of the Speaker. He himself says that.

What are the rules of procedures? A Member shall not address to another Member in a disrespectful manner. The rules provide that a Member should not address directly; he has to address another Member in a third person, through the Speaker. These are the procedures. A Member should not challenge the Speaker's ruling. A Member should not create indecorum and indiscipline in the House.

Precisely this was being done by the two Hon. Members, Shri Ram Dhan and Shri Raj Kumar Rai. At that point of time was it not his duty? What is a whip? It is said and recognised that without a system of whips—the whip does not apply to the Ruling Party or the Government Chief Whip; it applies to the Leaders, the Whips of all the Parties, it cannot function. It is a common day knowledge.

You yourself request to the group leaders to discipline their Members. For the orderly conduct of the House, the list is submitted to you by the various groups as to who should speak. You are not bound by this. The Speaker has unfettered right as to whom to call and whom not to call. But it is the Whips, the group Leaders who know what elements are to be satisfied, so that it does not create disorderly scene in the House. The Speaker is guided by the advice of the Leaders.

The point that I am making is that, if a Member says that a whip is issued on every day in the House when there is an emotional outburst in the House and when a point is reached that disorderly scene is going to take place, when the Chief Whip or his deputy runs and pacifies the Members, does it amount to restriction? It is beyond the wisdom and intelligence of any one, an ordinary Member, much less the most experienced Members and Leaders and people's representatives, to think that

the system of whip which is evolved over years and years is a restriction on the right of the freedom of speech, much less intimidatory.

It is a help, as the names submitted to you by the various party leaders is, in the nature of suggestion. Similarly the whole scheme of whip is not a restriction, intimidation and a weapon it is in the nature of a friendly advice.

PROF. MADHU DANDAVATE: Thank God! In the Emergency, we were not in the House.

SHRI B. R. BHAGAT: Do you object to this, don't you agree to all this?

PROF. MADHU DANDAVATE: I only said that I was not in this House during Emergency.

(Interruptions)

SHRI B. R. BHAGAT: When you know that you have a bad case or no case, you bring in all kinds of extraneous things.

The point that I was emphasizing was about the party functioning. You yourself deserved the other day that whip is a matter between the Members and the Parties. Rightly so, Sir

Can I not question Shri Ram Dhanji and Shri Raj Kumar Rai that are they not Members of the Congress (I) Party? I hope they are still the Members of the Congress (I) Party. They may speak against it and except voting they may do everything. But they are still technically, really and substantially in the Party.

The problem has arisen mainly because of the misconduct—if I am allowed to use that expression... (Interruptions). I am not yielding. Please don't disturb my argument. Please don't disturb. I said, the whole problem has arisen by the wrong conduct of the Members. They belong to the Congress party and they want to use the Floor of the House to express views in a mannerly which is

[Shri B. R. Bhagat]

against it. So, what the Minister of Parliamentary Affairs has done is in the spirit he has advised in a friendly manner when he sees the hon. Member at the point of time going not only disorderly behaviour but is breaking the decorum and is on the point of contempt of the House to uphold the Speaker's ruling. Every Member will agree that Mr. Ram Dhan was at that point of time going to commit the contempt of the House and at that point it was the duty of the Parliamentary Affairs Minister and he has done his duty in advising him to obey the Chair. What is the whip? The Minister's whip, a written letter, says: You please must obey the Chair. Is it restriction?

So, Sir, I would conclude by saying that this is a non-issue. There is no privilege involved. The Minister for Parliamentary Affairs and the system of whips has done the right thing and you should reject it outright.

SHRI SHARAD DIGHE (Bombay North Central): Mr. Speaker, Sir, the Opposition that the freedom of speech given under Article 105 is unfettered. It is not like the fundamental right of speech given to an ordinary citizen. It is something special given under the privileges, given under Article 105 and it is controlled by the Rules of Procedure framed which are consistent with the provisions of the Constitution. Therefore, we do not discuss the conduct of the Judges. We do not use undignified—language. We do not use unparliamentary language and we are bound by the Rules of Procedure.

Now, the main question in this issue is whether there is any restriction of that fundamental right of the hon. Member which he was exercising here in this House. That is the crux of the whole problem.

Firstly I will refer to the wording of the so-called whip issued by the

Minister for Parliamentary Affairs, Mr. H. K. L. Bhagat. He says, "Mr. Ram Dhan, you are still in the Congress party." I do not think anybody disputes that. He further says, "I would ask you as Chief Whip of the Congress Party not to proceed further and accept the ruling of the Speaker." The Minister for Parliamentary Affairs has merely asked the Member accept the ruling of the Speaker. Is it any way restriction on the freedom of the speech? Every Member is bound to accept the ruling of the speaker. He has no right to challenge the ruling of the Speaker. He has no right even to make observations about the ruling and whenever we walk out as protest against the ruling of the Speaker my submission is that that is also contempt of the House but generally we take a lenient view. Here merely telling a Member of our party not to challenge the ruling of the Speaker and not to go further, it is, I should say, absurd to say that it curtails the freedom of the speech. Therefore, no breach of privilege is involved. Then, he says: Accept the ruling of the Speaker. This is a whip which must be obeyed.

SHRI SAIFUDDIN CHOWDHARY (Katwa): What is that whip?

SHRI SHARAD DIGHE: I will come to the word 'whip' also. But the only direction given, or the advice given, or the instruction given to the Member is to accept the ruling of the Speaker. Then what about the other Members? For them also, the learned Minister of Parliamentary Affairs says:

"Dear Shri Raj Kumar Rai,

You are still in the Congress party. The Speaker has given the ruling. We must all obey the same and not speak against his ruling further. I am writing to you this as Chief Whip. This is a whip which must be obeyed..."

So, ultimately...

SHRI S. JAIPAL REDDY: On a point of order. The point is, did the Speaker give the ruling? Was it a ruling? ... (Interruptions) ... You earlier made an observation about the alleged misconduct of Mr. K. K. Tewary. Was that also ruling?.. (Interruptions) ... I think a clarification was issued from the Chair.

(Interruptions)

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES (SHRI H. K. L. BHAGAT): I wish to tell my Hon'ble friend, Shri Jaipal Reddy that I will quote Kaul & Shakdher to say that Speaker's ruling, observation, statement, nothing can be challenged... (Interruptions) ... You do not know... (Interruptions) ..

MR. SPEAKER: Let the Hon'ble Member continue his speech. Let him continue. No arguments. I have not allowed.

PROF. K. K. TEWARY: I want to speak on a point of order. Mr. Jaipal Reddy is in the habit of very malicious distortion and he continues with them.

MR. SPEAKER: What is the point of order?

PROF. K. K. TEWARY: After the ruling you gave last time accepting my explanation, the Member's attempt to refer to that incident as misconduct is a distortion of the worst kind and should not be allowed.

(Interruptions)

MR. SPEAKER: Carry on the same speech...

SHRI SHARAD DIGHE: If you go through the whole proceedings, the ruling was given by the Speaker. That was being challenged and wanted it perhaps to be revised. But the subject-matter of this breach of privilege motion is only the two whips issued by the Hon'ble Minister for

Parliamentary Affairs. I have read the contents of these and it is quite clear that he wanted an Hon'ble Member of his Party not to challenge the ruling; the ruling should be accepted; the ruling should be obeyed. I do not think there is any case of breach of privilege if we consider these two aspects of the matter.

Now, as far as the institution of Whip is concerned, I will only read extracts from Roland Young, 'The British Parliament', Chapter XII:

"The Whip organisation supporting the Government arranges for the orderly consideration of the Government's business. It is necessary to plan ahead and to coordinate action, making certain that the process in Parliament runs smoothly..."

So, it is the duty of the Chief Whip to see that the proceedings in the Parliament are run smoothly and for that purpose, to give instructions, to give advice and to give directions even to the Members regarding the conduct and behaviour in this House. No breach of privilege question will arise as far as that is concerned.

I have seen umpteen times that whenever there is disorder in the House, the hon. Speaker rightly looks to the Parliamentary Affairs Minister to help him to put the House to order and give instructions to the Member. He also looks to the Opposition to see that the leaders of the Opposition also control their Members and help the Speaker in running the House smoothly. Therefore, the whips on both the sides have to help the Speaker in running the House smoothly. From this point of view, if any directions are given to the Members, no question of breach of privilege will arise and there is no curtailment on the freedom of speech.

I will put another aspect of this matter also. Now, the Parliamentary Affairs Minister calls it a whip but I say that the document does not

[Shri Sharad Dighe]

become that document merely because the nomenclature is given to it. This is the fundamental principle of law as my friend, Mr. Amal Datta appreciated that whenever we call it a lease and if it is not merely a lease, the lease does not mean the lease at all. My submission is that these are mere instructions, mere advices to the Members and there is no question even of this whip at all. He calls it a whip. Let him call so. I will go further to say and put an alternative argument that this is not even a whip at all. It is only a direction, a mere friendly advice to a Member of this House not to commit further contempt. If he commits the breach or if he disobeys the ruling of the Speaker, he will be hauled up for the contempt of the House. Therefore, just to help in the smooth running of the House, to see that his own Members do not commit any contempt of the House, there is nothing wrong in giving directions of advices openly in the House, in the presence of other Members. There is no question of breach of privilege as the whole incident has taken place in this House before the eyes of everybody and before your eyes. I submit that there is no question of sending it to the Committee of Privileges. This House itself should decide that there is no question of breach of privilege involved in this. Therefore, the Motion may be thrown out.

THE MINISTER OF STATE IN THE DEPARTMENT OF DEFENCE PRODUCTION AND SUPPLIES IN THE MINISTRY OF DEFENCE (SHRI SHIVRAJ V. PATIL): Sir, I am making my submission on three points. The first point which I would like to make relates to the facts, the second point relates to law. And the third point relates to the course that can be adopted by us. In what situation was the advice given by the Parliamentary Affairs Minister? The two hon. Members who spoke before

me have made it very clear. There was a disorder in the House. The Members were rushing to the well and the hon. Speaker was directing them that they should behave themselves and help to maintain the order in the House. One of the Members was saying that he should change his ruling. The other Member was saying that they would not allow the House to work. In that situation, if the Parliamentary Affairs Minister directs his Members of his own party not to obstruct the proceedings of the House and to behave properly to help the House to conduct the business, can it be called a breach of privilege? If the ruling is given by the hon. Speaker, it is not to be challenged. Very often, we find that the Members walk out against that ruling from the Presiding officer. The hon. Speaker is very lenient. Always the presiding officers are lenient and they do not interpret the rules and the laws very strictly. But the law provides that if the ruling of the hon. Speaker is challenged, if any walk out takes place on the basis of the ruling given by the hon. Speaker, it is a breach of privilege.

MR. SPEAKER: That interpretation is always there, but I think, we are not very strict about it.

SHRI SHIVRAJ V. PATIL: I am not objecting to that; very rightly, it is done, but strict interpretation of law provides that even walking out of the House against the ruling is a breach of privilege. Shri Dighe, hon. Member, was speaking just now and he said that at times the assistance of the Parliamentary Affairs Minister or other whips is also sought to see that the Members whose feelings have been roused do not speak at one time or do not object to the proceedings and they help the hon. presiding officer to conduct the business of the House. This is the situation.

We have to consider and see what has been said by the Parliamentary Affairs Minister against the two

Members on the floor of the House in the background of the situation. If we do not consider the background of this situation and if we come to the conclusion on the basis of some assumptions and presumptions in our mind, that would be a wrong thing to do. We are not assuming and presuming things, but we have to decide on the basis of the facts which are available in the House.

What is the legal position? Prof. Dandavate will object to my referring to the legal aspects saying that I was the Speaker. I was not only the Speaker, but I am also a student of constitutional law and Prof. Dandavate is a student of physics. There is a little difference.

PROF. MADHU DANDAVATE: Law makes the law sharper, but physics makes it narrow.

SHRI SHIVRAJ V. PATIL: Physics probably makes the mind very broad and law is also all-pervasive.

What does Article 19 of the Constitution say? Article 19(1) (a) says:

"All citizens shall have the right—to freedom of speech and expression..."

There is no dispute on this point. Restrictions are placed in Article 19(2):

"Nothing in sub-clause (a) of clause (1) shall affect the operation of an existing law, in so far as such law imposes reasonable restrictions..."

Let us understand it very clearly that no right given in the chapter of Fundamental Rights is absolute. It has its own restrictions and limitations. Without understanding the restrictions and limitations, which are put by the Constitution on those rights, it will be difficult to understand the real purport of the Fundamental Rights given to the citizens under the Constitution. This Article says:

"...in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence".

My submission is that nobody has a right to be abusive; nobody has a right to be unruly, nobody has a right to obstruct the proceedings in the House, nobody has a right to say certain things which cannot be said under the Constitution.

I very respectfully want to differ from the interpretation put by Prof. Madhu Dandavate on Article 105. Article 105 says:

"Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament."

Article 105 says..."subject to the provisions of the Constitution", it is not subject to the provisions of this Article.

Let us try to understand this distinction 'subject to the provision of this Constitution'. That means Article 19(2) is a provision in the Constitution. So, the right available to the Members on the floor of the House is subject to the provisions from Article 19(2). Let us understand this, Sir. There is one more restriction to the rules and standing order regulating it. There are two restrictions; one is the Constitutional restriction and the second is the restriction under the Rule. Sir, this kind of provision in Article 105 is modified a little and the modification is found in Article 105(2). Article 105(2) says:

"No Member of Parliament shall be liable to any proceedings in any

[Shri Shivraj V. Patil]

court in respect of anything said or any vote given by him in Parliament or in Committee thereon and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament on any report, paper, votes and proceedings."

This is the Article. This is the provision. It distinguishes Article 105 from Article 19(2). Now, the distinction is not in the restriction put on the right of the Member but the restriction is on taking the matter to the court of law. If any Member says anything on the floor of the House, this matter will not be challenged in the court of law. But Article 19(2) says that defamatory language will not be used. Sir, does this House allow any Member to use the defamatory and abusive language in the House? The matter will not be taken to the court of law but the matter will certainly be taken to the Presiding Officer who is the final authority on deciding whether the right available to the Member is absolute, restrictive or used properly. Let us understand this distinction.

Now, the distinction is that the matter will not be taken to the court of law but it will be subject to the provisions of the Constitution, subject to the Rules, subject to the directions, subject to the conventions which are followed. Now, is there any convention in the House that the Member can rush from his seat to the Well? Is there any convention in the House that the Member can use abusive language? Is there any convention in the House that the Member has the immunity and the right to get up and obstruct the proceedings of the House? Is there any convention? Is there any Rule? Is this right available to the Member to flout the ruling given by the Hon. Speaker and yet claim the right to have a fundamental right? This is stretching the right of freedom of speech too far. This interprets the

right of freedom to speech in such a manner that it becomes ridiculous when we say that under the right of freedom to speech we are allowed to do anything. What is the impact? Was the Hon. Member propounding his philosophy when he was obstructed? Was he saying that the planning should be done in a different fashion? Was he saying that the Budget provisions have to be different. Was he saying that the legislation has to be in a different manner? Was he criticising any philosophy or policy of the Government? When was he obstructed? He was not allowed to obstruct the proceedings of the House. He was not allowed to flout the rules. He was not allowed to disrespect the ruling given by the Hon. Speaker. Then Hon. Speaker had to adjourn the House two times. Can we forget this fact? And can we say that the Member has a right to behave in the House which will not allow the House to work and yet claim privilege in the House? This is too much. This is stretching the rules and laws and stretching the statute too far. Sir, if you do that, it will be very difficult to behave or act in the House itself. So, if the Hon. Parliamentary Affairs Minister had objected to his propounding any different policy, putting forth different policies, giving some new ideas or criticising the idea of the Government, there was a ground for us to think that he was obstructed in expressing his views. But here the situation was completely different. Sir, I do not have anything more than this to submit all these points.

Now what course of action can be taken? The hon. members were very eloquent on this issue and they said that it was a very important issue. If you ask me, I will tell you this. I do not think that we have any doubts as far as the provisions of the Constitution and also the rules are concerned. We have no difficulty in saying that. But then, if the hon. members think that this is a very important issue, well, let it be decided by the entire House.

PROF. MADHU DANDAVATE:
And suppress the freedom of the
speech by brute majority!

SHRI SHIVRAJ V. PATIL, Pro-
fessor, I would expect you to behave
like a professor and not like a stu-
dent. Do you mean to say that the
freedom of speech will not be pro-
tected by the House, but that it will
be protected by the Privileges Com-
mittee? You have less faith in the
House and more faith in the Privi-
leges Committee. This is very
strange.

PROF. MADHU DANDAVATE: It
cannot be left to the vagaries of
minorities and majorities.

SHRI SHIVRAJ V. PATIL: Well,
it is more like the interpretation of
a novice than that of a professor ...
(Interruptions)

PROF. MADHU DANDAVATE:
Let me tell you one thing. To protect
our fundamental right you can go to
the court of law. But it is not de-
cided on the basis of minority and
majority in the Parliament. That is
how they are insulated.

SHRI SHIVRAJ V. PATIL: The
Committee on Privileges is not a court
of law. We are not referring this
matter to find out the facts. It is not
going to be a fact-finding committee.
The question is only that of inter-
pretation of the Constitution, the
question is that of interpretation of
rules, the question is that of adopt-
ing a policy, and the question is that
of adopting a philosophy with
respect to the rights available
to the members. And there is
no greater or higher body than this
august House of Parliament itself to
decide this issue. If we refer it to
the Privileges Committee, we are
referring it to a committee which is
a part of the Parliament and thus we
are not referring the matter to the
highest body. So Sir, my submission
is, according to Rule 226, as is refer-
red to by the hon. Speaker, this

House may consider this question
here and come to a decision. Why
is the provision made in Rule 226, if
it cannot be made use of? If the
provision is made under Rule 226, it
should be used to decide this august
and important issue. Why cannot
this provision be used? What is more
important than the privilege of the
members to speak freely in the House?
Let it be decided by the House. Why
should it go to the Privileges Com-
mittee? Is it only to prolong it, to
publicise the matter and to create
difficulties. Further, there is no
question of finding facts. Facts are
before all of us. Therefore, let it be
decided by this august House. Those
who object to the discussion in the
august House are really not interested
in protecting the privilege, the real
privilege available to the members
and I would be within my right to
say that they have some ulterior
motive.

PROF. MADHU DANDAVATE: Do
you mean to say that referring the
matter to the Privileges Committee
means delaying the matter? Is this
not casting aspersion on the Privilege,
Committee and committing another
breach of privilege

SHRI SHIVRAJ V. PATIL: I am
only saying that the Privileges Com-
mittee is a part of the Parliament. Is
it not better to decide this august
issue in this august House? It is not
necessary to take this problem to the
Privileges Committee. Here we have
the advantage and fortune of having
your good counsel. Here we also
have the advantage of having the
views of so many hon. members
sitting in the House. This will not
be available in the Privileges Com-
mittee.

PROF. MADHU DANDAVATE: And
also a brute majority!

SHRI SHIVRAJ V. PATEL: When
the issue is so important, let it be
decided on the floor of the House.

SHRI ARIF MOHAMMAD KHAN (Bahraich): Mr. Speaker Sir, I would like to thank you for giving me a chance to speak on the question of breach of privilege. Sir, I was listening to the senior members of the House like Shri Bhagat, Shri Dighe, and Shri Shivraj Patil. I have no hesitation in saying that they have very ingeniously tried to shield an action which openly violated Constitutional provisions and the Rules of Business of the House. Sir, before you go in I want to recite an Urdu couplet which you too will appreciate:

**Khiraad ko Junoon kar diya, Junoon
ko khiraad, Jo chahe aapka husne-
Karishma-saz kare.**

12.45 hrs.

[Mr. Deputy Speaker in the Chair.]

As to the question of those arguments...

SHRI ABDUL GHAFOOR (Siwan): You should have explained its meaning by translating it into Hindi.

SHRI ARIF MOHAMMAD KHAN: I believe that as long as you are present there you can clearly understand what I mean to say. Sir, the arguments put forward by the ruling party mean that the rights conferred by the Constitution can be used subject to reasonable restrictions—that order should be maintained within the House; unparliamentary language should not be used within the House, there should not be chaos and indiscipline in the House. There cannot be two opinions about this. But in regard to any question of maintenance of order in the House, or of violation of laws, rules and constitutional provisions, it is given in our Constitution and Rules of Business as to which official has the authority to maintain order in the House. If a Member in the House is found guilty of indiscipline or as the hon. Shri Shivraj Patil has said—No one can be allowed to use abusive language in the House. Now my question is if somebody uses abusive language in the House, if

some one creates problems in the House, is it going to be the right of Shri Shivraj Patil to go to that member and try to silence him.

[English]

SHRI SHIVRAJ V. PATIL: I have no right to punish him. I have every right to counsel him, to advise him to ask him to behave properly. (Interruptions) I am not punishing him. (Interruptions)

[Translation]

SHRI ARIF MOHAMMAD KHAN: Sir, basically I want to bring to your notice this very fact. It is clearly stated in Rule 378 of our constitution.

Rule 378 reads as follows:

"The Speaker shall preserve order and shall have all powers necessary for the purpose of enforcing his decisions."

Now I am not going into the question of ruling of the Speaker on the whip of one party or the whip of the other party; that is not disputable. But the question is whether the question of enforcing order in the House can be left to the whips of the respective parties. No, Sir. Once it is a question of maintaining order in the House, it is entirely within the power, it is the prerogative of the Speaker, it is the prerogative of the Chair; and this right definitely, this power cannot be delegated even to the whip or the Chief Whip of any party.

PROF. MADHU DANDAVATE: Except when Mr. Bhagat becomes the Minister.

[Translation]

SHRI ARIF MOHAMMAD KHAN: We have no objection if Mr. Bhagat wants to take over this job. We will rather welcome it and after that he will have no need to issue any whip. We will accept his ruling with pleasure but unless he is promoted to that office, he can't be authorised to take over the work of running the House.

It is not a question of breach of privileges of Members but our hon. Parliamentary Affairs Minister has tried to snatch the authority which is solely vested in the Speaker of this House. The notice which has been given is not for protecting the rights of Members but it is a basic question of protection of those powers which have been given by the Constitution and the Rules to the occupier of the Chair on which you are now sitting. Increasing encroachment by the Minister of Parliamentary Affairs... (Interruptions)

[English]

Even he is trying to encroach upon the powers which have been given to the Speaker or to his Chair.

[Translation]

In the context of the first point which I have raised I want to raise a second point. If any hon. Member goes on creating indiscipline or disorder in the House, our Rules of Business say what action can be taken against the Members and how discipline can be maintained in the House. This is given under Rule 374. Sir, I hardly need to read this rule. Under this Rule a member can be suspended and even asked to withdraw from the House. The whip has no authority as to what and how action can be taken in order to maintain discipline. As long as the Speaker does not name that Member our laws, the Constitution or the Rules do not authorize the Chief Whip to even move any motion against any member in the House. It can only be tabled after the Member has been pointed out by the Speaker. [English]

PROF. MADHU DANDAVATE: Mr. Tewary knows that rule very well. [Translation]

SHRI ARIF MOHAMMED KHAN: Mr. Tewary will definitely be knowing it because he is concerned with the maintenance of order. He has to deal with its provisions. He must be aware of it.

I would like to say that this is an open violation of the constitutional provisions and breach of privileges accorded to a member. Along with this, the authority given to the Speaker under the Constitution and the Rules of Business has been encroached upon by the Minister of Parliamentary Affairs.

So far as reference of this matter to the Privileges Committee is concerned, Shri Shivraj Patil has said, this matter need not be referred to the Privileges Committee but should be decided within the House. This certainly is welcome. Today the Government seems to place greater faith in the House than in Committees. So much so that according to them even important issues can be decided within the House. I shall be very happy if the government adopts the same attitude towards other important issues as well. Matters relating to Bofors have been referred to the Committee. Debate on those matters too can be held in the House. There are many other issues. The Government should trust the House in these matters also. Let the documents come here; let such issues be discussed here so that the general public in our country can know about them. When the Government finds it convenient it can refer the matter to the Committee. When the Government finds it inconvenient it shall raise objections and push for a solution to the problem in the House itself.

Sir, we have no objections to this. But I would urge this august House and all its members that at least matters of Parliamentary Privileges should not be seen from the viewpoint of party-politics. This matter is not limited to breach of privileges of hon. members like Shri Ram Dhan or Shri Raj Kumar Rai. This matter of privileges does not concern any individual but concerns the House as a whole. If the Government considers it from this angle, I believe that many Members who feel stifled will not feel so to arrive at a decision. They will

[Shri Arif Mohammed Khan]

not take long to know that privileges accorded to them in the House are encroached upon. There is no need to look at this from the view point of party politics. On the contrary, it needs to be seen from the viewpoint of breach of privileges of an individual or the House. If we consider it from this viewpoint it will not take long to arrive at a decision. And the decision will definitely be that the motion is in keeping with the letter and spirit of the Constitution and it should be adopted.

[English]

SHRI SOMNATH RATH (Aska): Mr. Deputy-Speaker, each privilege matter has to be decided on its own merits. Now, it has been said by members of the Opposition that the Speaker can refer it to the Privileges Committee. My submission is, that that stage is gone. Of course, the Speaker can *suo motu* refer the matter to the Privileges Committee. But after Rule 225, we have Rule 226.

Rule 226 reads like this:

"226. If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member."

So, the matter is now to be decided by the House, not by the Speaker.

The freedom of speech as defined in article 105 of the Constitution has been mentioned. But the fact remains that it is restricted by rules and procedures of the House. The "Rules of Procedure and Conduct of Business in Lok Sabha" has been framed under power derived from article 105. Standing Order means the Standing Order of the Speaker. We have got a Code of Conduct of Members also. As envisaged under the Rules of

Procedure and Conduct of Business, a 'Member shall conduct himself in such a manner so as to maintain the dignity of the House.' It has been mentioned in the 'Practice and Procedure of Parliament' by Kaul and Shakdher, on page 96:

"Members cannot criticise directly or indirectly, inside or outside the House any ruling given opinion expressed or statement made, by the Speaker."

Not only a ruling but observations and statements of Speaker also cannot be criticised inside or outside the House. It is the contempt of the Speaker and the contempt of the House. In the parliamentary form of government, a party has its own internal organisation inside the parliament and is served by the Chief Whip.

It has also been stated in the 'Practice and procedure of Parliament' by Kaul and Shakdher and I quote:

"This gives him (the Whip) quite a wide power of patronage which comes handy in keeping the party members amenable to his influence..."

Whips, both of the ruling party as well as those of the Opposition, play a very significant role in the smooth and efficient functioning of parliamentary democracy."

In the conference of Whips from all over the country, the privileges and the conduct of the Members inside the House have been discussed at length. The Conference's opinion is that the erring Member should be disciplined by the Whips of the ruling party as well as of the Opposition parties. So, under these circumstances, we must consider the matter at issue. The matter at issue is not what transpired before the so-called whip, the matter at issue is whether the so-called whip issued by the Chief Whip of the Congress (I) party is a matter of contempt. As I have said, it is an inter-party arrangement. Each party has to

work inside the parliament and it has nothing to do with the contempt of the House. Not only the Congress party but also Opposition parties issue whips. So, it cannot be said that the so-called whip is meant to gag the Member not to speak. On the other hand, it only reminds the two hon. Members of the own party—that cannot be forgotten—to conduct themselves in the manner envisaged under the rules and procedures of the House and not to commit contempt of the Speaker and of the House.

13 00 hrs.

So, under these circumstances, we cannot import our knowledge or the other facts into this particular issue and speak that it should be referred to the Privileges Committee. I have no objection that it should be referred to the Privileges Committee, but it is not necessary to do so. As has already been stated under Rule 226, it is this House and this House alone should decide whether it should go to the Privileges Committee. Secondly, having heard the matter whether there is a *prima facie* case that it should be referred to the Privileges Committee, I humbly submit that as the matter stands, it is an inter-party matter and it is a matter of the Chief Whip who enjoys the position for functioning in his party affiliation to discipline the Members, to advise them, to remind them how to behave inside the House which cannot be a matter of privilege and as such it should be rejected.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI SHEILA DIKSHIT): Sir, if the House feels, we can skip over the Lunch-break and continue this important discussion.

SOME HON. MEMBERS: Yes, yes.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUP-

PLIES (SHRI H. K. L. BHAGAT): It is a very important subject that is being discussed.

PROF. MODHU DANDAVATE: We accept the suggestion of Mr. Bhagat. We treat it as an inter-party whip.

MR. DEPUTY SPEAKER: We will forgo our Lunch-break now and we will continue our debate. Mr. Saifuddin Chowdhary to speak.

SHRI SAIFUDDIN CHOWDHARY (Katwa): Sir, the Members of this House articulate with almost unfettered right of speech within this House and no whip can restrict them. Now, it has been said that the Speaker of ten seeks the help of the Members of different parties and looks upon the Whips of different parties for bringing order in this House. Mr. Speaker is absolutely right in that and it is the duty of the whips, the official whip and all the Members of this House to respond to that. There is no question in this and any individual Member is also within his right to accept, whether it is oral or in writing the advice sent to him when he is in action, to restrain that action and the direction sent to him by the whip of his party; nobody can dispute that fact. But the question comes when this oral direction or written direction is sent to an individual Member and that individual Member objects to that very proposition and he insists that this very particular direction is nothing but an attempt to throttle his right to speak. In this circumstance, when Mr. Bhagat, as the Chief Whip of the party sent the direction to Mr. Ram Dhan and Mr. Ram Dhan did not submit to it...

PROF. MADHU DANDAVATE: Not direction, it is whip.

SHRI SAIFUDDIN CHOWDHARY: Whip or anything. Though Mr. Bhagat claimed that it was a whip, I did not consider it a whip. But in this House, we can only take cognisance of that whip which is connected with.

[Shri Saifuddin Chowdhary]

the voting of abstention or going against. So, it is not a whip. But in his wild imagination he thought he could give the direction under the name of the whip. That is the aberration of his mind and he tried to act as a mini dictator in this House and it is for the members of the Ruling Party, the Congress (I) Party, to consider whether this kind of ridiculous direction in the name of whip should continue or not. This is the first thing that I want to say.

The second thing is, now anything you may call it, you may call it direction, you may call it instruction, you may call it whip or anything. That is not the question for the House to consider. But the point is that when a Member is in action, when he is seeking the help of the Speaker against something that happened, he advance of a Member towards hi menacingly and when he is appealing to the Speaker, maybe in the background of observation made by Speaker and if he was violating the Rules of Procedure of the House, it was for the Speaker to take action and for that our rules are abundant. There are plenty of measures that Speaker can take to bring the rule in the House. But in this particular context when a Member of this House, may he be the Whip or anyboy, when he sends a direction and instructs a particular Member that 'you stop your action, you don't speak', that is nothing but amounting to the attempt to interfere in the right of that particular Member. So, here we come down to a particular point of the Member's right to speak in this House and what action, if he want unruly, if he has violated the norms of the House is to be taken is dependent on the decision of the Speaker of this House and in that, no particular direction or instruction or the so-called whip is at all valid or to be taken note of by this House or by the Speaker.

13.07 hrs.

[MR. SPEAKER in the Chair].

Sir, in this respect there is no question that this particular case is a very serious violation of the freedom, the right that we have as the Members of this House to speak in this House, our right to speak unfettered subject to the Rules of Procedure and that has been attempted to be throttled, curbed by the whimsical aberration of the Chief Whip of a particular party. So, it is a matter of concern for the whole of the House, it is a matter of concern for the dignity of the House, it is a matter connected with the Rules of Procedure of the House, and it should at once, immediately, be referred to the Privileges Committee and should not be left to the dictatorial directions of that particular whip who will instruct his Members to defeat this particular motion on the floor of the House. That will be another assault on the directions on the procedures and rules of this House.

So, to save the dignity, to save the grace in this House, Sir, I appeal to you that you directly refer it to the privileges Committee and let us have a decision about this particular Whip who does not know what is the meaning of whip. Mr. Sharad Dighe has said, it is not a whip at all. I also think so, Sir. We have the rules, according to them, it is not a whip. But how can a Chief Whip issue a whip which is not at all a whip? It is a very ridiculous thing for Mr. Bhagat to do so. Sir, to save the dignity of the House, you refer it to the Privileges Committee.

(Interruptions)

THE MINISTER OF PLANNING, MINISTER OF PROGRAMME IMPLEMENTATION AND MINISTER OF LAW AND JUSTICE (SHRI P. SHIV SHANKER): Mr. Speaker, Sir, quite a lot of arguments have been addressed on this privilege issue, and hon. Members were also pleased to put an interpretation in diverse ways on Article 105. Speaking for myself, I do not think that Article 105 comes into operation in this case. However,

because a lot of arguments have been addressed and there is bound to be a little bit of overlapping, I would be as short as possible.

What exactly is the breach of privilege, is the question in this case. The hon. Member who raised the issue of privilege has very pithily put it in two paragraphs. One is, he said 'In the written whip I was warned not to proceed with my observations and I was directed to accept the Speaker's Ruling.' Therefore, he was warned (a) not to proceed with these observations, and

(b) to accept the Speaker's ruling.

Then, he proceeds to say in the next paragraph. It is obvious that the whip issued on the spur of the moment and issued only to me and to Shri Raj Kumar Rai but not to other Party Members, was a calculated move to intimidate me and to suppress my freedom of speech in the House. Therefore, what we have to find out is, whether he should have been allowed to proceed with the observations on the Speaker's ruling. If so, whether there were observations or anything else. That is the first part of it.

The second part of it is, does it amount to a suppression of the freedom of speech of the hon. Member. These are the points which have to be taken into consideration. If it is a suppression of right to freedom of speech, it is, of course, I concede, that that is a matter where it makes out a *prima facie* case of breach of privilege.

Now, what had happened on that day? I was not here. I will not read the whole thing. But I will read one or two observations, to make the position clear. I find it at page 4380. You were pleased to give your ruling after the House assembled again. You gave the opportunity for the two hon. Members to give their explanations. After that you said:

"I have heard the two explanations, both from Shri Ram Dhan

and Prof. K. K. Tewary and find that there were some misgivings. Now, I think, as the hon. Members have said neither of them had any bad intention; neither Shri Ram Dhan, because he had completely gone by the hon. members' regard to the House and to other members; he did not want to say anything... Once he advanced to that, I said, he was advancing menacingly...

There were some interruptions and again you proceeded:

"I did say and that is why I ask for his personal explanation; and that is why, in the mean time, I had also postponed it. I wanted to clarify the position. Prof. Tewary, in all good faith said that he did not mean anything."

Afterwards, you were pleased to observe:

"In view of all this let us close this and let the matter rest here." That was your ruling, in my submission. You wanted to close the whole chapter. After you had made this direction, issued this direction or ruling, whatever one could call it—I am not particular about the wording that should be used—then the wrangling started. (*Interruptions*) I am sorry; have I used a wrong word?

PROF. MADHU DANDAVATE: Absolutely, most parliamentary.

SHRI SHIV P. SHANKAR: Immediately after that I find that Ram Dhanji went to the extent of saying—

"Mr. Speaker, Sir, you have changed your ruling."

I am reading this only to say that even the hon. Member knew that it was your direction.

"The decision you have given."

That was the direction. That was the decision.

PROF. MADHU DANDAVATE: He said, let it rest there.

SHRI P. SHIV SHANKAR: That is what I am saying. Therefore, the matter must be closed; no more further discussion.

MR. SPEAKER: Right. Treated as closed.

SHRI P. SHIV SHANKAR: I thought so. The hon. Member had a right to say "No" to it. But I am only trying to put it, from my own point of view, how I read it. Therefore, he wanted to treat the matter to be closed; no more discussion on this issue. But still the wrangling went on.

The argument of the hon. Member who raised the privilege motion was, that earlier you had taken a decision, you have changed the decision. That could be so. But the fact remains that there was a ruling. He also knows that there was a ruling, there was a decision by you. I have only read that part of it for that purpose. This went on for about more than 20 pages, I find. Finally, comes this issue of Whip after a great deal of wrangling that went on. Mr. H. K. L. Bhagat just issued this. What exactly the implication of it, we have got to go into it. "Mr. Ram Dhan, you are still in the Congress Party. I would ask you as Chief Whip of the Congress Party not to proceed further and accept the ruling of the Speaker. This is the Whip which must be obeyed."

Therefore, the point is what is it that he is doing? He is saying "Look, the Speaker has given a ruling" which I have just now read. He is doing this after a considerable wrangling that was going on in the House and he says that "Look, you obey the ruling" assuming for a moment, I will take it this way, supposing if he were to say, day in and day out when you are pleased to see that the order is maintained, when you try to maintain the order in the House, the Whips here sitting often ask the Members to sit down and, I am sure, that if we take that narrow meaning, then every

time they make a gesture, they are subjecting themselves to a breach of privilege. On many other occasions, when the hon Members had a very right point to say, because you take a view that there should be no interruption or they should sit down, they sometimes ask them to sit down, even by me. In my submission, that would be a much worse case where an hon. Member has something to say I would have said at that time that it is my right of expression guaranteed under Article 105, as Professor Saheb has very rightly said, it, and it is on that occasion, supposing if they say, I am sure every day the Chief Whip and the Whip are committing the breach of privilege if we take this narrow meaning or if you interpret in the manner in which you are trying to interpret it.

PROF. MADHU DANDAVATE: You can understand the position if you hear me for a second. Even if the ruling is given, has not the Member the right to request the Speaker that we request you in the light of what you have said in the past, you may review? I will give one instance. When he gave his ruling on matters *sub judice*, I gave him in writing that I may raise the point of order and he gave a written ruling. He said at that stage "I did not know what is the stage of proceedings in the court. Therefore, I will ascertain the matter." In a way, he will review. If I had not made the appeal, I am sure, he would not have done that. This instance itself shows that when we appeal to the speaker, he has that much accommodation to consider our appeal and then he can sometimes even review that ruling. That Fundamental Right is there in the House.

SHRI P. SHIV SHANKAR: I entirely agree with you, Professor Saheb. I am not in any way denying or trying to join issue with you on the proposition that you have laid down. We have a right for the purpose of making the request to review the ruling. There is no difficulty about it. Let me complete that part of it so that whether it was really a case...

PROF. MADHU DANDAVATE:
If at all it is a ruling.

SHRI P. SHIV SHANKER: I have said that it is a ruling. In my interpretation, I have said it is a ruling. Now the point is, was it a mere case of seeking the review or what was following thereafter, I am not reading the whole thing what has happened but, I am coming to that stage whether the Whip has been issued and then what followed. Few lines I am reading. (Interruptions). Mr. Acharia, may I just make a submission? Then I am prepared to answer anything you would like. This part of it I must explain my position. I am not reading this. He issued the whip. I would not call it a so-called or etc. etc. because I would go by the language of it. I was trying to say that there is no methodology or there is no proforma that has been provided as to how the whip are issued. In the absence thereof, a whip could be oral, a whip could be written as well. I am saying the same thing. Supposing if he were to say "Please stop", if that were the attitude which we take every day, many of us, Ministers also, I must submit, sitting here often request our hon. Members to maintain order and say: "Please do not proceed." I am sure one of us..

SHRI SAIFUDDIN CHOWDHARY:
That is all right.

(Interruptions)

SHRI INDRAJIT GUPTA (Basirhat): That is advice. That is all right. What is the wrong in it?

(Interruptions)

PROF. MADHU DANDAVATE:
That advice is in respect to other parties...

(Interruptions)

SHRI P. SHIV SHANKER: Now, the question is whether this is beyond the advice. Merely, you give the nomenclature as Whip. Does it

change? What is the substratum of it?

(Interruptions)

SHRI SAIFUDDIN CHOWDHARY:
Shiv Shankerji, May I seek a clarification? Can I speak for a minute? Now, giving advice to sit down to somebody when he is speaking and if the Member sits down after getting the advice from the Whip, that is all right. There is nothing wrong in it. But if one individual Member does not listen to that advice and he is threateningly given instructions to sit down and when he raises a question in this House saying: "I was threatened; my right to speech was cut", then this question arises. This is a very simple question.

(Interruptions)

SHRI P. SHIV SHANKER: Here. I would like to submit that the whole thing has to be read and it is a clear case where he was trying to defy the order of the Chair. I will come to it at a later stage. The hon. Speaker himself viewed it. I will read that portion of it. He only said: "Look, you obey the Chair's ruling. Don't create any problems." That only shows that he was feeling that here is a person who is defying the Chair's ruling and I want that he should.... (Interruptions) Well, it could be a case of difference of opinion.

(Interruptions)

MR. SPEAKER: Let him speak.

SHRI P. SHIV SHANKER: What I am trying to say is: what is it that Mr. Bhagat has done?... (Interruptions) Why don't you allow me to speak?...

(Interruptions)

MR. SPEAKER: You can speak afterwards.

SHRI P. SHIV SHANKER: I must at least have the modicum right of

[Shri P. Shiv Shanker]

my expression here without interruptions.

MR. SPEAKER: I think that will be called as privilege.

(Interruptions)

[Translation]

PROF. MADHU DANDAVATE: He issued a whip and is facing a difficult situation. What will happen if I do the same?

SHRI P. SHIV SHANKER: Mr. Prof. you also issue the whip you told me

For sometime, I will speak. All right ... This is the Whip on your side because there is no proforma.

(Interruptions)

SHRI INDRAJIT GUPTA: He is taking it very lightheartedly.

SHRI P. SHRIV SHANKER: Nobody is making it lighthearted.. (Interruptions) I am trying to explain as to how it happened in this House I am sorry that you are reading it as though that it is made lightheartedly. Nobody is making it lighthearted But it happens day-in-and day-out. I assure you that supposing if I get up to speak on an issue and if some body says: "you sit down"... then, I will take it that it is an interference with my right to speech. It is obviously a breach of privilege... (Interruptions). Therefore, this is what has happened. Then, the point is...

(Interruptions)

[Translation]

MR. SPEAKER: All right, you just listen. We have listened to you, now listen to them also. You have been given time and we will also listen to others, if they speak.

SHRI P. SHIV SHANKER: After Mr. Bhagat has said in this House, after

giving it in writing saying: "Look I have issued the Whip that you should obey the ruling of the Chair"... Now I will go to the next page. Only a portion, I will read where after you have been pleased to adjourn the House, Mr. Buta Singh observed. "Nobody can challenge the ruling of the Chair. The ruling of the Chair is the property of the House and the House must accept the ruling of the Chair"... Now, I would like to read your observation, Mr. Speaker Sir, I quote: "I don't find the situation such as will allow us to work. I find nothing except that I can name the Members which I do not want to do. I want to work. I want that this House should run.

[Translation]

you compel us and do not allow us to do our work.

[English]

I adjourn the House till 11 A.M. tomorrow."

I have only read this portion. I am saying that you were so vexed. You were vexed that the situation was such that it become uncontrollable. Now, I have read this portion of it.

Would you call it a case where you are seeking in all honesty, with all civility, for the review of the ruling that has been given or that those who were concerned were clearly obstructing the proceedings of the House? By reading this, I am only trying to demonstrate that a situation had arisen where there was a clear defiance, where there was an obstruction for the proceedings of the House which compelled you, Sir, to take this decision. If that be so, just preceding thereto if Mr. Bhagat as the Chief Whip had issued an instruction to his colleague saying, "Look, you accept the ruling of the House; things are going beyond..." (Interruptions)

SHRI BASUDEB ACHARIA: Obstruction was not from an individual Member.

SHRI P. SHIV SHANKAR: If you read the whole proceedings, Mr. Ram Dhan had been continuously trying to defy....

SHRI BASUDEB ACHARIA: He was appealing...

SHRI P. SHIV SHANKAR: You may call it 'appeal'...

(Interruptions)

SHRI P. SHIV SHANKAR: This only shows that they have such a weak case that they would not allow me to put my case...

(Interruptions)

MR. SPEAKER: Mr. Saifuddin Cowdhary, that may be his way of speaking. Let him speak. I gave you a chance. Why are you all the time interrupting? Why are you getting into this bad habit? You are going to be a good Parliamentarian. Why should you do this all the time?

[Translation]

SHRI RAM DHAN: Mr. Speaker, Sir, they advance to attack us, we are not even entitled to make a complaint?

MR. SPEAKER: Have you said, now please sit down.

SHRI P. SHIV SHANKAR: The concept in the parliamentary law that has developed is that it is the sole concern of the Speaker to maintain order in the House, and if the whips are there, they are only to assist him for the purpose of efficiency and betterment of the working of the House. This part of the position is clear. In fact, I am thankful to one of the hon. Members who argued from that side of the House. He has quoted Rule 378. He has tried to bring it to the notice of the House, and very rightly so, that the

Speaker shall preserve order and shall have all powers necessary for the purpose of enforcing his decisions—precisely that which you expressed yourself when you were saying, "I would have named you, but I would not like to name you; you are compelling me to do so". This was the feeling. Sir, you felt so vexed that you were compelled to adjourn the House. This was precisely what you were trying to do in terms of Rule 378 and this is what you were pleased to observe. If you kindly refer to *Kaul and Shakdher*, I would read only one sentence from page 97:

"He may direct any Member guilty of disorderly conduct to withdraw from the House and name a Member for suspension if the Member disregards the authority of the Chair and persists in obstructing the proceedings of the House."

Therefore, the point which I am trying to make is this: what exactly motivated the Chief Whip to give this instruction to his colleague? My submission is that he was afraid it would have been a case of contempt of the House, it would have been a case where you could have named him, it would have been a case of suspension of the Member from the House, and if in such circumstances the Chief Whip, as long as the Member remains a party Member, gives him an instruction, where has he committed a mistake? How do you call it a breach of privilege? The point is this. Arguments have been advanced to say that it constitutes a violation of the right enshrined in article 105 of the Constitution. Have thing passed to that stage? Is it right to speech to obstruct? Is it right to speech to defy the Chair? Is it right to speech to obstruct when the Chair is trying to maintain order in the House? If the hon. Members think that defiance of the Chair is the right to speech within the meaning of article 105, I

[Shri P. Shiv Shanker]

have nothing to argue. But if it is a defiance which is very clear if you read the whole proceedings, if it is a defiance... (Interruptions) That is precisely what I tried to explain and demonstrate. What you, Sir, said at the end, by itself, showed that you had come to the end of your nerves. Precisely at that stage, moments before that, Mr. Bhagat had issued this direction.

And I see nowhere as to now it could be called that it is an interference with the right to speech of the Hon. Members so that it could invite this Privilege Motion. It is a matter of interpretation. We can easily read these things by the proceedings themselves. The whole Privilege Motion rests on that. There is a case of violation. I am not going into niceties of it. What is the definition of Article 105? Well, Hon. Members have already said that the Right to Speech is subject to (a) the provisions of the Constitution; and (b) the Rules and procedure that has been framed by the House itself. Now the Rules of Procedure is that the Rule 378 says that the Speaker has the right to maintain the order and if that is defied, he has a right to name a person, to suspend the person. And if the Chief Whip, in pursuance thereof, being afraid or being apprehensive—I will call it being apprehensive, of the conduct of a Member, it might lead to suspension or he being named. Supposing he issues a Whip. It is a far-fetched approach to say that it is a case of interference with the Right to Speech. Therefore, in my submission, there is no case, not even a prima facie case so that one can think of in any form.

SHRI DINESH GOSWAMI (Guwahati): Mr. Speaker, Sir, this is not a simple case as has been stated by my friends. Because, if this is a simple case, you would not have granted consent to move this, to seek

the leave for this Privilege Motion. The fact that you have given consent, to seek leave, itself shows that there is a prima facie case which needs adjudication. Now who is to adjudicate? Will this House adjudicate on this privilege or the matter will go to the Privileges Committee? That is a point which we have tried to make.

Now, what are the points made? Mr. Shiv Shankar, the learned Law Minister has argued his case and Mr. Shivraj Patil has argued. But the point that is made is, does this Whip amount to violation of Article 105 of the Constitution? Mr. Shivraj Patil wanted to read Article 105 saying that Article 105 is subject to Article 19(2). I strongly differ with it because Article 105 is not subject to Article 102. 105 says, "Subject to the provisions of this Constitution and rules and standing orders regulating procedure of Parliament...". Therefore, if there is any constitutional provisions which regulates the procedure of Parliament, Article 105 is subject to that. Assuming that you are correct. Now this is a point which needs adjudication. In my view Article 105 is not subject to Article 19. In your view, Article 105 is subject to Article 19. Are we going to decide this important constitutional point by vote? By voting this House will either accept or reject this Motion. This is a very important point raised by an important Member, disputed by us that Article 105 is not subject to Article 19. What is the viewpoint of this House will never find clarity. Therefore, so many important points are involved in this question itself. I think, the matter should go to the Privileges Committee so that Privileges Committee can give a reasoned judgment about the scope and ambit of Article 105 and about other points raised therein.

Now, coming to the issue... (Interruptions)

SHRI SHIVRAJ V. PATIL: Will you allow me to say?

SHRI DINESH GOSWAMI: I am disputing. I saying that you are at a different viewpoint and I have a different viewpoint. We cannot settle this viewpoint, an important constitutional interpretation cannot be decided by a vote of the House.

SHRI SHIVRAJ V. PATIL: I am making a submission that the interpretation of the Constitution is the responsibility of the Supreme Court and the High Court. It is not the responsibility of the Privileges Committee. Privileges Committee may be a fact finding Committee. (Interruptions)

SHRI S. JAIPAL REDDY: In that case, let the President refer it to the Supreme Court. (Interruptions)

SHRI DINESH GOSWAMI: With respect to Mr. Shivraj Patil, if a privilege is dependent upon the interpretation of the Constitution, then the Privileges Committee shall have to interpret the Constitution. We will not allow this power to be dictated by outside body even the High Court or the Supreme Court. Now the question is why a Whip was issued. Whip was issued because there was a breach of certain legal connotation. And the legal connotation is, if you defy Whip, you are liable to lose your membership. In fact, Mr. Bhagat, unfortunately, probably was misled. Probably, somebody advised Mr. Bhagat that if you use the word 'Whip' and if it is defied you can... (Interruptions)

SHRI H. K. L. BHAGAT: Let me say, Sir. Just give me half a minute, I will reply. Let me make it clear that I myself wrote this. I was not led by anybody. I know law. I am a graduate. I have practised. And let me tell my Hon. Member that in 1954, I had acted as Chief Whip as also Chief Parliamentary Secretary. I

have done it. The responsibility is mine. Do not try to shift it to others.

SHRI DINESH GOSWAMI: But unfortunately, Mr. Speaker...

PROF. MADHU DANDAVATE: Even the Fotedar did not interfere. (Interruptions)

SHRI H. K. L. BHAGAT: Do not presume things. I have never said that. I have never said that this has to be used for this and that. You are supposing things which are not there.

SHRI DINESH GOSWAMI: I concede on everything. But the difficulty is that law regarding the Whip was made at the time when he was not practising. It is a new law which many of us even now are not fully cognisant of. Why the Whip was issued. (Interruptions)

SHRI H. K. L. BHAGAT: You were here and I was here.

SHRI DINESH GOSWAMI: I was not here.

SHRI SHARAD DIGHE: Whip was regarding voting.

SHRI DINESH GOSWAMI: That is precisely correct. But may I point out that one of the very senior Council of Ministers while addressing the new Members from Mizoram and Haryana said that if somebody defies the Whip, irrespective of voting or no voting, he will be disqualified. I am not going to name it. Therefore, don't take it that nobody knows it. The point is not merely the scope of Article 105. But the point is can you, inside the House intimidate a Member? The second point is Mr. Somnath Rath has very correctly said that this is an intra party matter. Can you circulate an intra-party document inside the precincts of the House when the debate is on? (Interruptions)

SHRI DINESH GOSWAMI: Inner party or intra party.

PROF. MADHU DANDAVATE: I am using not even intra party but both inner party and intra party.

SHRI DINESH GOSWAMI: The point is this. One point made by Shri Shiv Shankar is that supposing Mr. Tewary tomorrow defies a direction, I can definitely ask him to stop. But can I pull him down and say that you must sit down? If I pull him down and ask him to sit down will that amount to a breach of privilege or not? That is a point which I ask you. I can request. But can I pull him down? Even if a Member disobeys the Speaker, no other Member has the right to pull him down physically because that amounts to a breach of privilege. Only course open for you is to name him. That power cannot be taken by the Chief Whip. Therefore, I submit that, there are number of questions involved in this scope and interpretation of Article 105. Whether Article 105 is subject to Article 19(2)? Whether this type of document will amount to intimidation and whether such type of inner party or intra party document can be circulated inside the precincts of the House? Because Mr. Speaker, you don't even permit us to circulate document in the Central Hall. Today, I wanted to circulate some documents and I was prevented by the Watch and Ward Staff by saying that there is a clear direction that no document can be circulated by any Member inside the House. Therefore, these are the questions. How are you going to decide it? We may decide it by vote. If we decide it by vote and I say that the House has full right to decide it. I do not concede that right. I do not doubt that right. The House may decide. But if the House decides, then the reasoned judgment on all the points for the future guidance will be missing. And I believe, that all these points enable the Privileges Committee to give judgment which

can be the point not only for this occasion but for all future occasions. That is why, I want that the matter should go to Privileges Committee. The prima facie case against Mr. Bhagat has already been found irrespective of the fact whether you send it to the Privileges Committee or the case is decided in the House itself.

[Translation]

SHRI RAJ KUMAR RAI (GHOSI): Mr. Speaker, Sir, I will not take more than two minutes. I thank you for allowing me. The crux of the matter is whether the Minister of Parliamentary Affairs as a Chief whip can prevent any Member from expressing his views by issuing a whip in the House. A fact committed need not be proved.

It has been admitted by you and the Members who have participated in the discussion in your support that it was a whip. Sir, the moot point is whether they can prevent some Members from expressing themselves by issuing a whip after turning the House into a party office. I do not want to go into the motive because it has a background Sir, on that very day when the whip was issued I wrote a letter to your office that we are members of the Congress Party and we pointed out certain things and demanded that the Prime Minister should resign. That is why it was announced on the radio and T.V. that we have been suspended. Beyond that we are not aware of anything. Neither we have received any letter. Now the Parliamentary Affairs Minister asks us to do this and not to do that saying that it is a party matter.

So it is an internal matter of the party you are all aware of it. Now you and this House have to think whether Mr. Bhagat can make use of this House as a party office or not. Now, what were the circumstances under which the hon. Law Minister and Senior Members of the House raised so much hue and cry on which we have to hold a discussion. It is also possible that Bhagatji might have issued the whip seeking

our protection. You think over this matter honestly and tell whether he should have a discussion on it.

Sir, I want to submit one thing that in the case of Shri Ram Dhan and Prof. K. K. Tewary you said that as a gentleman I find there were no such intentions and as such the matter might now be ended. As Shri Ram Dhan and Shri Indrajit Gupta said that you have yourself seen and said in what manner he was advancing. Mr. Speaker, what you yourself have seen is the best evidence.

[English]

You are the best judge, you have seen with your own eyes.

[Translation]

At least you cannot do any wrong thing. Therefore, you yourself know that we were neither defying your ruling nor opposing that what you had said.

Thirdly, if we were defying any ruling or doing such a thing which was derogatory to the Parliament or the Lok Sabha then only you had the right to take action. Only you had the privilege to direct us to keep quiet. You might have said it smilingly or strictly. If you had said that then I would have been the last person to say anything and would have resumed my seat quietly. But Sir, would you like to forego this very right, the right of the Speaker in favour of the Minister of Parliamentary Affairs, Shri Bhagat so that he may send us written slips, love letters in the house?

[English]

"Mr. Raj Kumar Rai, you are still a Member of the Congress(I)".

[Translation]

What does it mean?

He sent a slip saying that:

[English]

"You have to obey whip. Otherwise you have to meet the consequences. And what are those consequences Sir? We will unseat you. He wanted to say that; but perhaps...."

SHRI H. K. L. BHAGAT: I refuse to be provoked by you. Time will show.

[Translation]

SHRI RAJ KUMAR RAI: Because he thought that these petty whips will do the needful and we will be frightened. Sir, it is true that I was frightened because this whip came from the Minister of Parliamentary Affairs. I thought though I am educated, yet some amendment might have been made in the Constitution about which I might have committed a mistake.

I had thought that there is freedom of speech in India and on becoming an M. P. after leaving my agricultural occupation I would speak in the House what I think right and legal in my view. But when I received a slip of hon. Bhagatji, I was frightened. Actually, my knowledge being little I was afraid of any punishment. I want to submit that there can be no case better than this which you have seen with your own eyes and about which you are aware of all rules and regulations and the practices so far followed here and in the House of Commons. Nothing like this has ever happened. Would you now like to submit this matter to the vote of the House and compel us to cast our votes against ourselves in the name of their majority? It amounts to this that you are giving a sword in my hand to cut down my own throat by giving a vote in their favour. If there had not been so much majority, such a big constitutional problem, such as a big right might not have been put to the vote of the House.

Why the Privileges Committee was constituted? If all these things were to be settled by voting then why it was constituted. With these words I submit that this is a very good case which should be referred to the Privileges Committee forth with without any argument.

[English]

SHRI BHOLANATH SEN (Calcutta South): Mr. Seapker, Sir I have arisen to

[Shri Bholanath Sen]

speak only because the Chief Whip has sent my name to you. If my name would not have been sent I would not have been able to speak. Therefore, when the Speaker is told that these are the persons who are going to speak on behalf of the party they **only speak unless the Speaker decides otherwise.** So Article 105 subject to certain conventions, understanding and practice, and that is why so far as the party is concerned we have to obey the decisions of the Chief Whip.

We cast votes in various committees. Very often the Chief Whip or somebody on his behalf informs us that such and such person should be voted. Well we do that. That is one of the things that has to be done by him and we also follow. There are times when shouting, etc. is going on and the Chief Whip waves his hand and we stop. These are not written in the Constitution or in the Rules. When you get up, I have noted, in the Opposition and also on this side the Members do not sit but there is a custom that when you stand we ought to sit. That is not written anywhere.

SHRI BASUDEB ACHARIA: It is written in the Rules.

SHRI BHOLANATH SEN: There are certain things which are not written in the Rules. Where is the right to sit in the well of the House? Now they do. Sometimes you punish. Sometimes you do not. Sometimes you adjourn the sitting of the House. This happens.

Sir, we forget that there has been a sea change in the Constitution. By addition of the Tenth Schedule the party system has been recognised and here it has been said that if the Member abstains from voting—now voting may be by voice vote or may be by ballot or by other means. Therefore, it is incongruous to think I shall go on attacking the resolution brought by my party and at the same time when the voting comes up by voice vote I do not say anything. Now was it conceivable that you have to cast vote according to the decision of the political party which

came into the Constitution for the first time? It was not known before. Even an independent member may lose his membership if he joins some other party. It was not known before. This is a new aspect. It is no use of thinking of Parliament in England. It is no use of thinking what happened in 1978 or before that. Things have changed totally. Today, the party system has been recognised in the Constitution itself and Article 105 must be read subject to all the provisions of the Constitution, including Art. 19, which is about fundamental rights, and Schedule X, which has been recently incorporated.

Sir I am quite surprised. It is an internal matter. What I can say and what I cannot say is not written everywhere in everything. Even some Members object to something being said. Then it is not allowed. Some Members say something, even if it is not shouting and sometimes there is chaos and commotion and the House has to be adjourned.

My submission is that it is our internal system internal democracy of the party itself in the Parliament. We have said that the Chief Whip shall see that our attendance is assured because that is his job, discipline is maintained because that is his job. In order to see that the discipline is maintained, if the Chief Whip says: Please don't say this or that thing or please say this, is it anything wrong? Please propagate our policy, if he says, is it anything wrong? Please say this. Please say in favour of non-violence, so to say, a broad example. Can he plead violence at that time? There is nothing against it in the party system. Otherwise why this party system? One has to see why they are sitting there. One has to see what is the object behind Chapter X. Now this is the idea behind. There was some debate on this. There was no division. Everybody accepted as far as I remember because the parties have now decided to take up certain stand and the party must put forward in Parliament the same stand. In order to see that if the Chief Whip says something to his own party men, I do not see how

a question of privilege arises with regard to the functioning in the Parliament.

SHRI INDRAJIT GUPTA (Basirhat): Sir, if there were not any weighty questions which are worthy of examination and determination by a body like the Privileges Committee, I do not know why so much time is being spent on this debate and why you are sitting patiently hour after hour listening. If there is no case at all as it is sought to be made out, now I am in a bit of confusion because two eminent ex-Speakers of the same Assembly and one Law Minister ..

PROF. MADHU DANDAVATE: Emergency Speaker also spoke.

SHRI INDRAJIT GUPTA: ...have spoken things which are contradictory to each other. Now whose view point am I supposed to appreciate?

SHRI SHARAD DIGHE: See first into the law book.

14.00 hrs.

SHRI INDRAJIT GUPTA: I am not a lawyer. All the people speaking here are lawyers. Unfortunately I am not a lawyer. I have never been a lawyer. Mr Dighe said something which was contradicted by Mr. Shivraj Patil regarding Article 105. Mr. Dighe made it quite clear. You please consult the records to see what he said. He made it quite clear that the rights of freedom of speech which are given to ordinary citizens of this country, are different from what are given to the Members of Parliament as far as right to freedom goes. This is not the same thing at all. There are restrictions on the right of freedom of speech of ordinary citizens of this country. There are reasonable restrictions. He said that there are no such restrictions whatsoever when it comes to Members of Parliament except what is there in the rules or what the Speaker decides. But hon. Shri Patil has based his whole argument on Article 105 and then comes the Law Minister. I don't think that Article 105 comes into the picture at all. Even if assuming that Article 105 is governed by Article 19—I am just reminding as to what are those considerations on which Article 19

seeks to restrict the laws. It was reasonable restriction on the exercise of right of freedom of speech. It is given in Article 19(2). Let us see whether any of them have been in danger or have been contravened or have been violated. One is the sovereignty and integrity of India. I don't think that anybody will allege that such a thing was in danger. Then comes the security of the State, friendly relations with foreign States, public order. This is another point which I would like to know from you whether you consider that order in the House and "public order" which is referred to are the same. Here it says decency or morality. My friends are trying to make out...

MR. SPEAKER: I think public order and this order are quite different from each other.

SHRI INDRAJIT GUPTA: They are two different things. Here, you as the custodian of this House and Speaker can decide if order in this House is being violated by somebody and how it is to be maintained. It is your directions which will have to be followed. It has got nothing to do with restrictions which are visualised in Article 19. So, Mr. Dighe was correct when he said that there was a distinction between exercise of this right by ordinary citizens and that exercised by Members of Parliament. They are not the same at all.

SHRI SHIVRAJ PATIL: Article 105 starts with the words 'Subject to the provisions of this Constitution'.

SHRI INDRAJIT GUPTA: There are so many points and somebody has to examine them. There are so many contentions and counter contentions based on the rules, based on the Constitution. Who is going to decide? Is it going to be decided by a simple vote of the House?

SHRI SHARAD DIGHE: The Supreme Court has already decided.

SHRI INDRAJIT GUPTA: One or two words about the famous piece of literature whose author is Mr. H. K. L. Bhagat about which so many things are being said. Mr. Bholanath Sen said that everything has

[Shri Indrajit Gupta.]

changed and that we must not think in old terms now because the concept of the parties as it is now enshrined in the Schedule of the Constitution is not what it was previously. I do not know as to what limits one can stretch this argument. I can mean that once this party is being recognised in that annexure, it means that whoever is a Member of that party, inspite of being a member of this Parliament, becomes a kind of, well I cannot call him a prob, but a person who is not free to speak as he wants.

SHRI BHOLANATH SEN (Calcutta South): Article 105 has not become subject to the Tenth Schedule because the Tenth Schdeule has come now.

SHRI INDRAJIT GUPTA: It has to be gone into whether this Schedule has brought in a new concept which means that the Member of Parliament because he happens to be a Member of a particular political party no longer enjoys that freedom of speech as has been guaranteed to him under this Constitution and under the rules. Something has come in to limit or restrict that right.

(Interruptions)

MR. SPEAKER: No cross-talk please.

SHRI INDRAJIT GUPTA: If the submissions that were made by Shri Ram Dhan were in any way defamatory, abusive or threatening, then I can understand it but that has not been alleged. Mr. Bhagat's whip is very interesting. I have read it many times and I am trying to understand its meaning and implications. 'You are still in the Congress Party'. Why was it necessary to write this? It could have been that Mr. Bhagat honestly felt that Mr. Ram Dhan had forgotten that he is a Member of the party or he should be reminded about it or it can be that he is still in the Congress party but cannot remain there for long if he does not behave himself. Then he says, quite clearly that he is issuing a whip as Chief Whip not to proceed further and to accept the ruling of the Speaker. This is for you to clarify

whether you had actually ruled or not. We cannot say anything about it. We don't think that you have given the ruling on all these matters. You had adjourned the House since there was disorder according to you which did not permit to continue the proceedings of the House. So, Mr. Bhagat says that you should not proceed. It is a whip which must be obeyed. He is a Member of the party and therefore, according to Mr. Bholanath Sen's argument this kind of whip can be issued and should be issued and must be obeyed. Who is to judge all that discipline? Is it the Speaker or the Chief Whip?

SHRI BHOLANATH SEN: Even inside the House, we are to be the representatives of the party.

SHRI INDRAJIT GUPTA: If this is the intrepitation and if it is being accepted finally either by vote or in any way, I am afraid that you have to vacate the Chair. You will have no function to perform. Functions are to be taken over by the whips of different parties. This is elevating the party system to an absurd height. We know that whips are generally used to ensure attendance and to ensure voting according to the decision of the party. Subject to these, he can give advice to his Members and nobody can object to that but this is not a piece of advice when he says that he is the chief whip and he is issuing a whip which must be obeyed. He can give even 20 pieces of advices and I have not objection over it whatsoever. He can even call him out to the lobby and 20 Members of the Congress party could have given him advices, I hope you remember Sir that he was being physically pulled down by three or four members in order to prevent him from speaking. After that arrangement was made to change his seat. Anyway, I am not going into that. What I am saying is that this is an unprecedented thing which has happened—this kind of a whip issued inside the House to a Member while he is speaking and saying that you have been challenging the ruling of the Speaker. First of all, was there any ruling or not, that is for you to say Sir. If you say: "Yes, I had given my ruling", I will accept it, but as far as we understand, in the ordinary sense

of the term, there was no ruling given. Anyway, if he was arguing and he was arguing with the Speaker and asking him to reconsider the matter, claiming that he had not done anything wrong, is that his right as a Member or not? It may not be something which is to the liking of Mr. Bhagat, but that does not mean that he can try to shut him up.

What I submit, first of all, that this is not a question of Article 105 at all. Article 105 does not apply at all to Members of Parliament. They are not governed primarily by Article 105. It is quite clear. Article 19 does not apply in the present case at all. None of these contingencies in which reasonable restrictions are to be imposed were of any relevance in this particular case. The question is: Why was this whip given? It was given in order to prevent him from speaking and he had the right to speak. Many Members on that day were shouting and creating what you would consider disorder. He was not the only one and certainly he never said anything which was defamatory, abusive, threatening or anything like that. In such a case, if it is decided that there is nothing wrong with the issue of a whip of this type inside the House, then a new situation will be created which never existed before. I do not know whether Shri Bholanath Sen includes that contingency in the new set up which he visualizes as a result of the new Schedule. Whether it means now that henceforward such whips can be issued inside the House to prevent a Member from speaking or saying something which is not to the liking of the Chief Whip.

I submit that this is totally wrong and so many questions cannot be settled. Of course, if you, in your own right, chose to give a ruling, that is up to you to decide either it must be by your ruling or it must be by a reference to the Privileges Committee, it cannot be decided suddenly like this by a vote of the House.

According to the rules—you will of course give your interpretation—you can give a ruling also if you like. But unless it goes to that Committee, I would like to know how all these complicated and weighty questions are going to be settled. We can go on making speeches for the

rest of the day, but nobody will convince the other side... (*Interruptions*).

PROF. K. K. TEWARY: A few words by way of personal explanation.

MR. SPEAKER: All right, if it is on this subject.

SHRI INDRAJIT GUPTA: I did not go into that subject at all. If Mr. Tewary is going again to all that, who was threatening whom, who was responsible for disorder etc., that will open up another big chapter. I am not going into that all. I have restricted myself faithfully to Mr. Bhagat's whip.

PROF. K. K. TEWARY: Sir...
[Translation]

MR. SPEAKER: Do you want to speak on this subject.

[English]

PROF. K. K. TEWARY: Not on this, but on a personal explanation.

[Translation]

MR. SPEAKER: I had accepted that proposition.

[English]

PROF. K. K. TEWARY: You had accepted, even then...

[Translation]

SHRI INDRAJIT GUPTA: I have not mentioned your name.

MR. SPEAKER: That was being quoted from the former text. There is nothing else; I accepted that. No problem. I had accepted that proposition. That is over.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES (SHRI H. K. L. BHAGAT): Mr. Speaker, Sir, I must confess that I am speaking with a lot of sadness in my heart, because as Minister for Parliamentary Affairs and Chief Whip of my party, I believe it is one of my responsibilities and jobs to keep the members of my party happy and keep the members of the opposition also happy. This I consider as one of my responsibilities and if—a few members from the

[Shri H. K. L. Bhagat]

opposition feel unhappy, I do not feel happy about it. Therefore, I say that I speak with some sadness in my heart.

I would like to state that the issue has been raised and this, to my mind, needs to be settled. Let me make it clear that I believe fully in the freedom of speech of the hon. Members. Today, I am a Minister, earlier I was a Member and I know every Member has a right to speak. I have a very great respect for all the opposition members and leaders and members of my party and when they speak, I give very respectfully consideration to what they say. Among the opposition leaders, when the senior leaders speak—Prof. Dandavate speaks, or Shri Acharia speaks, or Shri Indrajit Gupta speaks—I would say more about when Shri Indrajit Gupta speaks—I always think twice before speaking. He has spoken and I was listening all the time to what he was saying. He says that Article 105 is not relevant at all.

SHRI INDRAJIT GUPTA: Law Minister said the same thing.

SHRI H. K. L. BHAGAT: Shri Indrajit Gupta says that Article 105 is not relevant at all. It is Article 105 which gives this freedom of speech to a Member of Parliament. The matter which has been raised; I believe, is an important matter. With all humility at my disposal, I would try to answer the points which have been raised. As per my own capability, I can do it. And yet I am not only speaking from my head; I am speaking from my heart as well. I felt that this needs to be gone into and that is why I have made my point. This issue has been raised from time to time. Sir, there is absolutely no two opinions that it is your privilege, your prerogative and your right and responsibility to maintain decorum in the House. There are no two opinions about it. It is absolutely your responsibility. The only question is, whether it is the responsibility of all of us or not? And, secondly, whether it is the responsibility of the Leaders and Whips of the House to assist or not?

SHRI INDRAJIT GUPTA: Including the Leader of the House.

SHRI H. K. L. BHAGAT: Please do not interrupt me.

PROF. MADHU DANDAVATE: He is assisting you.

SHRI H. K. L. BHAGAT: You should not interrupt me. I am speaking with the permission of the Speaker. I am talking of all the parties and not my party alone.

PROF. MADHU DANDAVATE: You said 'Leader of the House'. He may be from any Party.

SHRI H. K. L. BHAGAT: I am talking of the leader of all the parties and groups in the Parliament, whether it is their responsibility to assist in maintaining the decorum and discipline in the House or not? Every case depends on its own peculiar circumstances. As I said earlier, there is absolutely no dispute to the fact that it is your responsibility and your prerogative. I am only saying, is it not the responsibility of all of us, particularly the Leader of the parties and the Chief Whip, who are the functioning institution of the House, to assist in maintaining the decorum in the House? When a Member is persistently criticising the Speaker's ruling they should come to help.

Now, Indrajit Guptaji said, "Whether it was a ruling or not"? Now, I will come to this point a little later. Even Shri Ram Dhan has considered it as a ruling. He said:

[Translation]

"You have changed your ruling".

[English]

He is accepting it as a ruling. But the law goes a bit further, I am quoting from Kaul and Shakhder, page-96:

"Speaker's ruling, as already stated, cannot be questioned except on a substantive motion. A Member who protests

against the ruling of the Speaker commits contempt of the House and the Speaker. Speaker is not bound to give reasons for his decision. Members cannot criticise directly or indirectly, inside and outside the House any ruling given, opinion expressed or statement made by the Speaker."

PROF. MADHU DANDAVATE: You also quote the other ruling from the same book.

SHRI H. K. L. BHAGAT: Prof. Dandavate, please, I have the greatest respect for you. Everyday I learn some or the other thing from you. I always do not wish to say anything which may annoy you. Therefore, please let me speak. So, Sir, it says any opinion expressed or statement made by the Speaker. I agree that a Member has a right to request the Speaker to clarify or re-consider certain thing. He has such a right. The question is that in the given circumstances was that done or something else was done? Though it may be a repetition, I would like to refer to the proceedings of the House on that day because it is an important matter. It is nothing personal. A Privilege Motion is raised against me. I have respect for everybody. I always try to maintain the best relations with all. The whole question is very basic. The point is that Shri Indrajit Gupta says that the Article 105 is not relevant. So, the question is whether Article 105 is relevant or not? In fact, I would say that this is the only provision in the Constitution which gives the right of the freedom to speech. Article 105(1) says:

"Subject to the provisions of this Constitution and the Rules and the standing orders regulations of the procedure of Parliament, there shall be freedom of speech in Parliament."

So, this is the only Article in the Constitution which specifically talks about the freedom of speech to the Members of Parliament. But Shri Indrajit Gupta said that it is not relevant. It does no matter to me whether anybody agrees with me or not. I am entitled to give my opinion. According to me this is the only provision

in the Constitution which is relevant at this point. I am not going into other clauses. This is the only Article which very clearly, specifically unequivocally says that the Members have the freedom of speech. There are very solid reasons as to why the framers of Constitution have provided this Article. Now, do you want us to forget Article 105 and also Article 19? Do you mean to say that a Member has a right to say anything?

Shri Indrajit Gupta has quoted and tried to give some interpretation as to why I have written that he is still a Member of the Party. I think Shri Indrajit Gupta knows that they are the suspended Members of our Party. I only told them.

"You are in the Party and you are supposed to follow the instructions given on any matter." And what was the matter? I just told them that they should not disobey the Chair. They did not dispute when I said that they are the Members of the Party. Even Ram Dhanji got up and said...

[English]

"SHRI RAM DHAN: There is no provision in the Constitution of the Party. Nor there is any letter of suspension."

SHRI H. K. L. BHAGAT: Therefore, what I am trying to say is that the language of the whip should be read in a manner in which it is used. I am not an expert in the English language. I have studied in the ordinary school and college of India. So, I use simple language and what exactly I wanted to say was that please do not obstruct the proceedings of the House and do not oppose the Speaker's ruling any more. That is all I wanted to say. But I could not understand why some other meaning has been drawn out of it. Now, Shri Indrajit Gupta was hinting that the anti-defection Law was at the back of my mind. What was there in my mind I have written it clearly. There was nothing more, and nothing less than that.

Now, Sir, I would like to recapitulate and place before you as to what had hap-

[Shri H. K. L. Bhagat]

pened. I would like to place it on the record.

I would like to recapitulate and place before the House as to what had happened during the course of the proceedings of the House on 17 November 1987. Before I come to that, I would like to mention just another point. Shri Dinesh Goswami who is a very eloquent and intelligent member and who is a good friend of mine questioned as to why it should not go to the Privileges Committee and why we should discuss it here. Firstly, as one of our hon. members has put it the whole thing had happened before this House itself. Therefore, this is one reason why this House itself should go into it. Secondly, we belong to different parties and the Privileges Committee also comprises members of my party as well as members of other parties in the same way as this House has. And it is not for the first time that a matter relating to breach of privilege is coming before the House itself directly. Let me refer to page 729 of 'Kaul and Shakdher'

"There arose a case in 1967 when opinion was divided in the House about the alleged breach of privilege. Instead of referring the matter to the Committee of Privileges, the issue was decided on the floor of the House."

It happened not once. It had been done a number of times and particularly when the matter had happened on the floor of the House itself. *(Interruptions)*

I cannot anticipate the decision of the House. It is the wisdom of the House to decide it... *(Interruptions)*

I am just recapitulating. After the question hour on 17th November 1987 at about 12.10 PM, hon. member Shri Dinesh Goswami raised the question of the Government of Nagaland having tried to set up some polling booths within the territorial jurisdiction of Assam. A number of Members made their observations. You were also pleased to make certain observations. There were repeated interruptions and a number of members went to the well of the House. Shri Raj Kumar Rai, Shri Ram Dhan

and Prof. K.K. Tewary made some observations. Let me clarify here that I am not commenting on who went to the well of the House or what their behaviour was and so on. The hon. Speaker in his wisdom—and rightly too—does not go by the strict technical interpretation of rules. Most of us violate the rules sometime or the other. Let me come back to the proceedings of 17th November. The members went on in this fashion for about half-an-hour and sensing that there was no order in the House you were pleased to adjourn the House.

The House again met under your instructions at 2.30 P.M. A number of members made their observations and they included Prof. K.K. Tewari and Shri Ram Dhan. Then you were pleased to give your ruling. Your ruling which was quoted by Shri Shiv Shanker also, is as follows:

"I have heard the two explanations both from Shri Ram Dhan and Prof. K.K. Tewary. I find that there were some misgivings... In view of all this, let us close this and let the matter rest there."

You were pleased to observe this, whether it be called a ruling or not. Even if it were to be considered a statement or an opinion or a direction, I take it only as a ruling. It has the same meaning. And it has to be respected and accepted.

After giving your ruling, you had given the floor to the Home Minister who was trying to explain the position with regard to the point raised by hon. member Shri Dinesh Goswami. While the Home Minister was on his legs, Shri Ram Dhan and Shri Raj Kumar Rai continued to stand and oppose your ruling for a long time and made a number of observations. You were also pleased to make some observations to restore order in the House.

Sir, I will not take your time quoting all the observations. But I would certainly like to quote some of your observations to show the situation which we were in on that day and I want this hon. House to understand it. Sir, you had exercised utmost restraint, utmost persuasion, utmost patience and acted in utmost wisdom.

I would like to use the word 'cajoling' even if it were unparliamentary. You had used your cajoling powers to the utmost to make the members see reason. The following are some of the extracts from the proceedings as to what Shri Ram Dhan and Shri Raj Kumar Rai said and what the Chair was pleased to observe:

[Translation]

SHRI RAM DHAN: Mr. Speaker, Sir, you have changed your ruling". It was a clear reflection on the chair. (*Interruptions*)

You just listen please.

"SHRI RAM DHAN: Mr. Speaker, what is this happening? If nothing is being done by you then we will not allow the House to run in this manner".

I am pointing out that to what extent you went.

"MR. SPEAKER: All right, if you do not want, I will adjourn it. I have no problem in it".

(*Interruptions*)

"MR. SPEAKER: If you do not want to run the House then what can I do?"

It is not so, that the situation was not to obstruct the proceedings of the House.

(*Interruptions*)

[English]

SHRI S. JAI PAL REDDY (Mahbubnagar): He is threatening Sir.

PROF. MADHU DANDAVATE: Was it written there that he said it loudly and angrily?

SHRI H.K.L. BHAGAT: Madhuji, you not only coordinate the Opposition but you also listen to us. We learn from you. Sometimes, I say off the record that you coordinate all of us. Then why do you act in this manner sometimes.

[Translation]

SHRI RAJ KUMAR RAI: You yourself have seen, you yourself have said. Then what more can be said."

SHRI RAJ KUMAR RAI: What is the point in it? (*Interruptions*)

SHRI H.K.L. BHAGAT: The point is that even after having repeatedly asked you remained standing and obstructed the proceedings. (*Interruptions*).

MR. SPEAKER: You please sit down, don't argue.

SHRI H. K. L. BHAGAT: Shri Raj Kumar Rai says that you have yourself seen and have yourself said. What more can be said? I say that this House has seen and listened everything and finally has the authority under law to decide, then why this House should not decide it. (*Interruptions*)

Just listen, you should now bear with me. I have listened to you and all of you.

[English]

"MR. SPEAKER: I agree with you, Professor Sahib."

This is with reference to Prof Dandavate.

"I fully endorse what you have said. I do not retrace my steps, and I do not hide anything behind anybody's face. I do not have anything to gain if I am partial. I cannot be."

This means the Speaker is reiterating his observation or ruling. Now, what Mr. Ram Dhan says:

[Translation]

"SHRI RAM DHAN: Mr. Speaker, I have no doubt in it. If you had done justice properly, I would have neither raised any objection nor said anything else."

(*Interruptions*)

[English]

SHRI H.K.L. BHAGAT: In other words, Prof. Sahib don't think you are repository of all reasons. (*Interruptions*)

SHRI H.K.L. BHAGAT: Again this reflection was cast on the Chair.

[*Translation*]

He says, if you had done justice properly, I would have neither raised any objection nor said anything else.

[*English*]

That means he is charging you being unjust. Is it not a reflection? What else is it? Then, Sir, Shri Ram Dhan.

[*Translation*]

"SHRI RAM DHAN: Now it is being done in this manner. I accept your earlier ruling".

[*English*]

In other words, after the Speaker has closed the matter in his wisdom, he is challenging it again and again and pressing the Speaker, criticising the Speaker, reflecting the Speaker again to revise his observation.

(*Interruptions*)

[*Translation*]

SHRI H.K.L. BHAGAT: After this the hon. Speaker, says.

"MR. SPEAKER: Ram Dhanji, you are a gentleman and you seemed to be a perfect gentleman. You used to say that I am a very good man. Now you may sit down".

[*English*]

How he reacts to you? This should be known.

(*Interruptions*)

SHRI H.K.L. BHAGAT: I won't stop until I finish. You have brought a Motion against me. You must hear me.

[*Translation*]

To this what Ram Dhanji says:

"SHRI RAM DHAN: I am not able to hear what you are saying. I would like to request you not to set up such a pre-

cedent, if any Member is attacked in the House..."

I am quoting faithfully.

[*English*]

"MR. SPEAKER: I have not allowed anything."

[*Translation*]

The Hon. Speaker did not allow anything. Even then they remained standing and went on speaking without his permission. Then what the Hon. Speaker said, I quote:

"MR. SPEAKER: Ram Dhanji at least some interest of this House and the country should be kept in mind. Whatever I have said. I have said it after keeping this all in mind. I have not said any improper thing. It is neither against anybody nor insults anybody. I want to respect each and everyone unhesitatingly. your honour is my honour and the honour of this House is the honour of all of us, therefore, when you accepted it earlier why don't you accept it now. Now don't pursue it any more and sit down."

After this they neither sit nor accept it and remain standing and what they say:

"SHRI RAM DHAN: In this way the case is being disposed of." What more serious reflection can be on the Chair than this."

[*English*]

Ram Dhanji, with respect to him, has caused aspersions on the Chair not once but half a dozen times.

[*Translation*]

After this the Hon. Speaker says:

"MR. SPEAKER: I have no option but to adjourn the House. I cannot do anything else."

(*Interruptions*)

"MR. SPEAKER: I have seen it. had there been such a word, I would have

asked him to apologise and got it expunged but if he says that he did not say so, there must be some misgivings. Now what can be done in this matter.

SHRI RAJ KUMAR RAIS: A coward has no courage.

English

Mr. Raj Kumar Rai also continue. Despite the Hon. Speaker's advice he goes on speaking. You are continuing.

Sir, this something Mr. Ram Dhan is teaching you :

Translation

What Ram Dhanji says? "Above your seat 'Dharamchakra Pravartnaya' is written. This should not happen. Whatever injustice is meted out to us outside the House the same is meted out to us within the House also."

English

He is again repeatedly disobeying you.

One question is raised now, namely, why these two Members were given this whip. The whips are generally issued to the whole party. (Interruptions) I can see that. Number one: I wish to say this with respect. As a number of my hon. colleagues have said, forget for a moment the new law relating to defection. There, the parties have been given statutory recognition; but by present, by our various rules, the parties have been recognised, and the functioning of the parties in the House is the essence of parliamentary democracy. That is how, Sir, you distribute time to them, that is how they do so many things. That is how you ask for their names, and that is how the parties are guided in Ayes and Noes, to vote this way or that way.

The institution of Whips is a functioning institution in the House for a long time.

Sir, with respect, I want to say this. I would like to ask: Do the hon. Members think that the leaders and the Chief Whips should not interfere at all in any manner, if a Member behaves in any manner, or, if any Member speaks in any manner? Is that your meaning? That would be a sad day for the Indian democracy—let me tell you. (Interruptions)

Mr. Basudeb Ji, let me tell you that when I went on the Jan Vani programme, one of the questions put to me by one of the questioners was :

[Translation]

"What happens in the Houses, how the Members behave and what do you do to check it?"

I said—"all this happens in a democracy."

Now just see, read and listen attentively. (Interruptions)

Many newspapers and journals have been reporting from time to time and criticising what sometimes happens in the House. They are of the opinion that it is in violation of the Rules and it is for the Leader of House to see into it. I do not say that only you people do this but sometimes the hon. Members belonging to my party also indulge in such things. They also stand up and remain standing while the Hon. Speaker is on his legs. This is often done by your side and sometimes by our side and that too I do not support.

SHRI MADHU DANDAVATE: Have you heard. What the Press has published about Fairfax?

SHRI H. K. L. BHAGAT: I have also seen that but now don't raise those points. [English]

Sir, I am saying this. Irrespective of that, I have a right to say, and I am going to say this. (Interruptions)

[Translation]

You leave aside that point. You said this twice or thrice either yesterday or day before yesterday :

[English]

'Mr. Minister of Parliamentary Affairs, what is happening?' Am I not supposed to respond to you, and ask my Members to sit down? Am I not to ask them : 'Please sit down; please don't do that.' If I can do it orally, I can surely do it in writing. (Interruptions) Now please sit down. No, no. Do not interrupt.

SHRI RAJ KUMAR RAI: Sir, I am on a point of order.

MR. SPEAKER: What is your point of order? Mr. Bhagat Ji, one minute.

[Translation]

SHRI RAJ KUMAR RAI: My Point or Order is that you gave a ruling on the day when the No-Confidence Motion against the Government was under consideration. On that all the senior Ministers, and even the Prime Minister have been arguing against your ruling for half an-hour to one hour.

[English]

MR. SPEAKER: That is not a point of order.

[Translation]

SHRI RAJ KUMAR RAI: Was not that disobedience at that time, when all the hon. Members were asking for changing and reviewing it. What was the Minister of Parliamentary Affairs doing at that time. We would like to have your ruling on this because there can no other occasion greater than this one when the Council of Ministers and the Hon. Prime Minister himself went on arguing for one to one hour and a half... (Interruptions)

MR. SPEAKER: Have you finished, now sit down.

(Interruption)

[English]

(Interruptions)

PROF. MADHU DANDAVATE: Three-fourth of the Cabinet Ministers were on a point of order. (Interruptions)

SHRI H. K. L. BHAGAT: The hon. members know that there is no comparison. Will you tell me did any member of the party say we will not let the House function? Did any one challenge, criticise.... (Interruptions)

SHRI RAJ KUMAR RAI: Everybody did not allow the Speaker to function on that day. You asked the Speaker to adjourn the House.... (Interruptions)

MR. SPEAKER: They spoke with my permission; they sought my permission and allowed everybody to make his submission. That is all.

(Interruptions)

SHRI S. JAIPAL REDDY: They were allowed; you allowed them to make submissions on your ruling. (Interruptions)

MR. SPEAKER: I was listening to their point.....

(Interruptions)

PROF. MADHU DANDAVATE: When I rose, three-fourth of the Cabinet Ministers were on a point of order.

(Interruptions)

SHRI INDRAJIT GUPTA: But the fact remains that half of the Cabinet Ministers were opposing your ruling.

(Interruptions)

MR. SPEAKER: They were pointing out certain things....

(Interruptions)

SHRI INDRAJIT GUPTA: I had remarked, Mr. Bhagat, where is your whip now. You were sitting there quietly. (Interruptions)

MR. SPEAKER: No, no; don't twist it.

(Interruptions)

SHRI INDRAJIT GUPTA: You want double standard to be observed.

SHRI SHIVRAJ V. PATIL: I had said that other Ministers had said that

before you give ruling, we would like to make a submission. (*Interruptions*)

SHRI BASUDEB ACHARIA (Bankura): He gave the ruling and you challenged it. (*Interruptions*)

PROF. MADHU DANDAVATE: I can show you the record. He has given the ruling. (*Interruptions*)

SHRI BASUDEB ACHARIA: He gave the ruling and you wanted to revise the ruling. You go through the record. (*Interruptions*)

MR. SPEAKER: Please sit down. I have my own opinions. I go by my own opinions. I do not follow anybody's opinions.

(*Interruptions*)

SHRI H. K. L. BHAGAT: One point is that the whip is issued to the entire party and why to an individual member. I want to answer this. Only these two suspended members from the Congress (I) Party were violating the Rules of Procedure and clearly disobeying the Chair, defying the Chair's ruling by speaking without your permission, by criticising your ruling, by not obeying your ruling and casting aspersions on the Chair as also obstructing the proceedings of the House for a long time and thus it is they who have committed contempt of the House. Should I at that time issue a whip to all my members for the fault of Shri Raj Kumar Rai? (*Interruptions*)

[*Translation*]

SHRI RAJ KUMAR RAI: If you do this thing....

MR. SPEAKER: Again you have started speaking.

SHRI RAJ KUMAR RAI: When we say, it is termed as disobedience and when they say then...

MR. SPEAKER: Now you sit down.

(*Interruptions*)

MR. SPEAKER: Will you sit down or not? Sit down.

[*English*]

SHRI H. K. L. BHAGAT: I have no intention, nor has my party any intention nor do we believe in this standing on technicality, nor did I ask any member to bring a privilege motion against them, which could be brought. But I do not do it; I will not do it. A point which I think some of the opposition members made was this. It is not correct to say that they were seeking mere clarification about your ruling; they were clearly disobeying it and criticising it. Rule 352 (viii) of the Rules of Procedure and Conduct of Business in the Lok Sabha clearly states that "a member while speaking shall not use his right of speech for the purpose of obstructing the business of the House", which was done. To quote Kaul & Shukdher (p. 96): "A member who protests against the ruling of the Speaker commits contempt of the House and the Speaker."

PROF. MADHU DANDAVATE: You also see page 97. (*Interruptions*)

[*Translation*]

MR. SPEAKER: Mr. Acharia, it has become your habit to interrupt and it is a very bad thing.

[*English*]

SHRI H. K. L. BHAGAT: It is at this stage, when, in spite of your repeated appeals, the situation had reached a point where the two Hon'ble Members, namely Shri Ram Dhan and Shri Raj Kumari Rai, along with other members belonging to the opposition, were persistently defying the Chair, obstructing the proceedings and thus committing contempt of the House, that I sent a written whip to the two Hon'ble Members of the Congress (I) Party to accept the Ruling of the Chair. I also said that on the floor of the House. Finally, you were pleased to adjourn the House at 3.41 P.M. after making the following observations:

"I do not find the situation such as will allow us to work....."

SHRI H. K. L. BHAGAT: Who has created this situation?

SHRI ARIF MOHAMMAD KHAN (Bahraich): You!

SHRI H. K. L. BHAGAT: No! You! Not we.

"I find nothing except that I can name the Members, which I do not want to do. I want to work. I want this House to run.

[Translation]

You compel us and do not want to allow us to work.

[English]

I adjourn the House till tomorrow 11.00 AM."

Now, Sir, these are the circumstances under which and as I said in the beginning I was not promoted by anybody to issue this whip. That is one. My honourable colleagues and friends may be more knowledgeable about law and procedure. Yet, I want to tell them that they are very senior, perhaps they have been in the Parliament, some of them, longer than me. I came to Parliament in 1971. I am in public life from my childhood. I am as much educated as most of you are. I have not gone to London. (*Interruption*) But I have been in the public forum at Delhi, though I have learnt my lessons more from the laboratories of life. But I know law, I know the rules.

Now, Sir, I had, in the preceding paragraph, tried to explain the circumstances leading to the issuance of the whip. I fully believe in the freedom of speech of Hon. Members in accordance with the provisions of Article 105 of the Constitution. The language of the whip is very clear. The whip was issued only to ask them to desist from further questioning the Ruling of the Chair so that decorum of the House could be maintained. That was the only reason for issuance of the whip. There was no question of any other motivation. In my oral observations also I emphasised the same

thing. Now some friends said (*Interruptions*) Mr. Dandavate is very sharp. I must say, too sharp—rather very sharp. Now, he says that I chose the words knowingly. (*Interruptions*) Please wait. I have used the words knowingly. I want to reiterate. What can be the consequences? I did not say that you should be taken under anti-defection law, knowingly. What are the consequences? The consequences are, you could name the Member. As the Speaker, you could ask him to go out of the House. If he had refused, I would have to move a motion against, even against my member—if necessary I do it—asking them to leave the House or make a motion for suspension. Now, if I tell my members this, "You should not disobey the Chair, and obey by instructions" if asking a member to obey the Chair, a member who is persistently defying the Chair, challenging him again and again repeatedly, if that is a sin, I am a sinner.

SHRI S. JAIPAL REDDY: You are an unrepentant sinner.

SHRI H. K. L. BHAGAT: Now, Sir, in this context I would like to submit that it is the privilege and responsibility of the Chair to maintain decorum, dignity and discipline of the House. They have tried to rub this point. Shri Dinesh Goswami, Indrajitji and others, it is the responsibility of the Chair, as if I am infringing on your rights and privileges. No. In fact, asking my members to obey your ruling, I am assisting you, I am strengthening the decency and decorum of the House. It is my responsibility. If I do not do it, unfortunately I must admit neither they nor we do it to the extent and on occasions we do not do it, that is why the functioning of Parliament is getting a bad name also.

SHRI MANVENDRA SINGH (Mathura): I am on a point of order.

SHRI H. K. L. BHAGAT: It is also the duty of the hon. Members of the House. (*Interruptions*)

Are you allowing the point order?

MR. SPEAKER: What is the point of order?

[Tarnslation]

SHRI MANVENDRA SINGH: Mr. Speaker, Sir, has the hon. Minister ascertained and will he tell the House as to on what point the heated discussion and objection were raised in the Parliament?

[English]

What action has been taken against Prof. K. K. Tewary?

MR. SPEAKER: There is no point of order. Not allowed.

SHRI H. K. L. BHAGAT: Now, Sir, Shri Arif Mohd. Khan is a very good friend of mine. He is also too, too, sharp. I am not using the word 'clever', deliberately. He has asked "Why this foundness for committees, Bofors Committee, why this foundness for House?"

I want to remind him. Firstly it was the Opposition who demanded a Committee on Bofors. Secondly, there is no parallel and I want to tell you, how much do you respect the freedom of the speech we have.

PROF. MADHU DANDAVATE: Why not come to the Privilege?

(Interruptions)

SHRI H. K. L. BHAGAT: We know the hon. Members are suspended members of our party. We all know what they say. When you are sitting on this bench, you had your say. You spoke against the Muslim Women Bill. You remember, you have voted for it. Why you voted for it? You must search your conscience.... (Interruptions) Why you voted for it? Whether you are a votary of muslims or anything else, you must think within yourself. I only put this question to your conscience. I am putting this question to your conscience and the hon. Members who are sitting there. Now you are out of our party and I am nothing to do with you. The other Members who are yet suspended Members of our party, I know what they say here, what they talk here, what they do here and

why. It is all right. As long as the legal constitutional courses are there, I am not bothering also.

PROF. MADHU DANDAVATE: Many of your Members criticise your action outside.

SHRI H. K. L. BHAGAT: Just one minute. In this context, I would like to submit that it is the privilege and responsibility of the Chair to maintain decorum, dignity and discipline in the House. It is also the duty of the hon. Members of the House to act according to the Rules and Directions and assist the Chair in that respect. It has been and it is also—I reiterate that it has been and it is also the duty and responsibility of the leaders|whips of various parties|groups in the House to help the Chair by restraining their members in a given situation to ensure smooth running of the proceedings of the House.

Now the question of maintenance—now it is not my view—the question of maintenance of decorum and dignity of the House has been discussed in various All-India Whips' Conference and many recommendations were adopted. These conferences do not belong to my party and all your whips are there. (Interruptions)

[Translation]

SHRI RAM DHAN: It has not yet been included in the rule.

[English]

SHRI H. K. L. BHAGAT: In January 1986, I am quoting:

"The conference considered the different aspects of the problem of maintaining decorum and discipline in the Legislatures and recommends that in the interest of maintaining the prestige of our representative institutions at a very high level, legislators and Members of Parliament should always endeavour to promote an atmosphere of decorum and discipline which adds to the sobriety and dignity of the deliberations of the representative institutions".

[Shri H. K. L. Bhagat]

See further. Then they say in October, 1967:

"Those Members who indulge persistently and deliberately in disobeying the Chair and create disorder by scenes should be discouraged".

How do I discourage? This is the recommendations of all of you and your party.

Now, Sir at the 7th All-India Whips' Conference held in Madras in September, 1969, they say:

"Those members who indulge persistently and deliberately in disobeying the Chair and create disorderly scenes, should be discouraged".

"Members should also raise matters in the House only with the permission of the Presiding Officer".

"The ruling of the Chair must be respected and not challenged on the floor of the House".

These all are your and my recommendation.

Now, the responsibility of the whips is, therefore, not only to ensure the attendance of the members and to ask them for voting and supporting the stand of the party, but also to assist the Chair in maintaining the decorum and dignity of the House by members of the concerned parties. The whips are a functioning institution in the House. It is they who send the names of speakers on various issues to the Chair for participation in the debates. To this extent others cannot complain that their right to freedom of speech is violated under Article 105 of the Constitution if their names are not furnished in the list and debarred from speaking. This procedural approach is necessary for the smooth functioning of the House. It is the whips who indicate to the party members to vote in a particular way. It is they who approach the party members to cooperate with the Chair and ask them not to commit any

breach of privilege. On many occasions, the Chair has drawn attention of the Chief Whip (Minister of Parliamentary Affairs) or his colleagues to the situation in the House and asking them for restraining the members. "In fact, there have been instances when the role of the Chief Whip|Leader of the House has been criticised on party forum for their failure to act promptly and firmly to meet the situation" (page 617—*Law of Parliamentary Privileges in India* by Shri V. G. Ramachandran).

Now Sir, I am quoting: According to Chambers Dictionary, my friend has already quoted—I am quoting two lines. A whip is one who enforces the attendance and discipline of a party". Now Sir, as to whether a whip can be issued in the House, I am of the opinion that there is nothing that could prevent the Chief Whip|Whips from issuing a whip to his party members in the House. It is borne out by the practice that when divisions take place in the House, or when some issues are unexpectedly raised on the floor of the House, the Chief Whip|Whip clearly indicates to his party members the line of action and it is within his competence to take a decision and direct the members of his party accordingly. If it is contended that the whip cannot be issued in the House, it will be difficult to meet such situations which occur quite often. In fact, party members seek such directions from the Chief Whip.

I quote an example. When the Constitution (48th Amendment) Bill was under consideration on August 7, 1975 in the Lok Sabha, the hon. Speaker himself was pleased to observe during the course of the debate in the House as follows:

I hope, I am not wrong. Perhaps, hon. Shri Dhillon was the Speaker of the House then. And Mr. Raghuramiah had gone to the seat of a Congress Member to ask him not to move his amendment. The member did not move the amendment. And the issue was raised by them that the freedom of speech was being curbed. Then the Speaker said:

"—The whip has right to issue instructions to his partymen."

This incident was inside the House.

"...As far as the Whips are concerned, they inform them about their decision. Both sides do it. This is the Whip's work..."

These observations relate to an incident which happened in the House. It is not correct to say that the whips can issue instructions only to entire party members and not to any individual members. In the case of erring members who are committing breach of privilege, decorum and discipline of the House by persistently questioning the ruling of the Speaker and so on... (*Interruptions*)

[*Translation*]

SHRI NARAYAN CHOUBEY (Midnapore): Mr. Speaker, Sir, please save us

MR. SPEAKER: Now even God cannot save you

SHRI H. K. L. BHAGAT: I shall leave it if you stand up and admit that there has been no breach of privilege. (*Interruptions*)

[*English*]

That day you yourself had allowed both Ram Dhanji and Tiwariji to make some submissions. And with that they were satisfied. There was no question on that day of any action against Shri Tewari or anybody else.

Dignity of the Chair is the dignity of the House and dignity of the nation. It should be maintained. I tried to assist in the same. If this concept of responsibility of the party leaders and whips to assist the Chair in maintaining decorum, dignity and discipline is not accepted, with respect I submit, it can have disastrous consequences for the smooth functioning of democracy in the country.

I would reiterate with all humility that I fully believe in the freedom of speech

of members as enshrined in Article 105 of the Constitution and in the instant facts of the case there was no question of intimidating them or obstructing them in discharge of their duties as Member of Parliament. There was no other motive in me except that I asked them not to proceed further in defiance of the Chair in pursuit of maintaining the decorum and discipline in the House. I bear no ill-will whatsoever towards the hon. Members. My intention was only to maintain high standards of discipline, decorum and dignity of the august House... (*Interruptions*)

SHRI VIDYA CHARAN SHUKLA (Mahasamund): Shri Bhagat has made a very good speech. He has made a very good case for reference of this matter to the Privileges Committee... (*Interruptions*)

MR. SPEAKER: I invite the attention of the House to Rule 226. It says:

"If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion either by the member who has raised the question of privilege or by any other member."

It is thus for the House now (a) to take a decision on the matter or (b) to refer the matter to the Privileges Committee. (a) or (b) can be done on a motion made by any member. I would like to know if any member will like to move a motion thereto.

SHRI S. JAIPAL RADDY: You move the motion and refer the matter to the Privileges Committee.

MR. SPEAKER: No, I cannot... (*Interruptions*) According to the rule, I have to put it before the House now... (*Interruptions*)

PROF. MADHU DANDAVATE: I have one submission to make.... (*Interruptions*)

MR. SPEAKER: There is no provision for me to move the motion.... (*Interruptions*)

PROF. MADHU DANDAVATE:
They are in majority.... (Interruptions)

MR. SPEAKER: There is no question of majority. The question of majority or minority is there and here also... (Interruptions) I have given you my consent. There is no option for me but to put it to the House. Either of the way you like.... (Interruptions)

MR. SPEAKER: If there is no motion I am going to the next business.... (Interruptions)

I have done my job and it is now your job.... (Interruptions)

MR. SPEAKER: I have done my job. I have put it to the House. I am not superior to the House. I have done my job. I think I have spent more than four hours on this subject because I thought it was important. Now it is for you to move it.... (Interruptions)

MR. SPEAKER: If you do not move it, then I am going to the next item.

PROF. MADHU DANDAVATE:
Sir, you are leaving the freedom of speech to the vagaries of the majority.

SHRI DINESH GOSWAMI (Guwahati): Sir, I am on a point of order... (Interruptions)

MR. SPEAKER: Look here. Freedom of speech will never be curbed in this House. That is for sure. No problem on that score as far as this question is concerned....

(Interruptions)

MR. SPEAKER: No, no. Nothing doing. It will not be done...

(Interruptions)

PROF. MADHU DANDAVATE:
Sir, freedom of speech and the privilege of the House is violated. We want the remedy to that.

MR. SPEAKER: Mr. Prof. you make a noise. Freedom of speech in accordance with the parliamentary procedures

and our rules will never be curbed in this House. That is for sure...

(Interruptions)

[Translation]

MR. SPEAKER: You go on speaking. If you want to have your way then move it.

[English]

MR. SPEAKER: I cannot do it. That is not for me now, that if for you now. I have put it to the House. If you want to move the motion, move it, otherwise don't bother me.

SHRI DINESH GOSWAMI: Sir, I am on a point of order.

MR. SPEAKER: No, there is no question of point of order now. What is your point of order?

SHRI DINESH GOSWAMI: Sir, my point of order is that you have quoted rule 226. But subsequent to rule 226, there is rule 227... (Interruptions).

MR. SPEAKER: That has nothing to do with this.

SHRI DINESH GOSWAMI: Rule 227 says: "Notwithstanding anything contained in these rules, the Speaker may refer any question of privilege to the Committee..." (Interruptions).

MR. SPEAKER: That is why I have put it to the House.... (Interruptions)

MR. SPEAKER: No, no.

PROF. MADHU DANDAVATE:
Sir, you may not exercise that right, but the right is there. You may decide not to exercise it.

MR. SPEAKER: Why should I use it when I put it to the House? The House is there and I have done it.

PROF. MADHU DANDAVATE:
Sir, don't leave the freedom of speech to the vagaries of the majority. By brute majority they may suppress the freedom of speech in the House.

MR. SPEAKER: Look here The notice you have given says: "I, therefore, give notice under rule 223 to raise the question of privilege against Shri H. K. L.; Bhagat and seek Speaker's consent under rule 222 to raise the question of privilege." That I have allowed. Now it is up to you.

PROF. MADHU DANDAVATE: Sir, we have requested you to refer the matter to the Privileges Committee.

MR. SPEAKER: You can move a motion;

PROF. MADHU DANDAVATE: Yes, I am moving the motion that we request the Speaker that the matter be referred to the Privileges Committee. *(Interruptions)*

Sir, we request. It is an appeal to you. Sir, we have the right to make an appeal to you. You are the custodian of our freedom of speech.

MR. SPEAKER: That is what I have done....

(Interruptions)

PROF. MADHU DANDAVATE: Sir, you are the custodian of our freedom of speech... *(Interruptions)*.

MR. SPEAKER: No question of threat to anybody or to any freedom of speech. Not at all... *(Interruptions)*

PROF. MADHU DANDAVATE: Sir, can the freedom be protected by throwing it to the vote of the brute majority?... *(Interruptions)*.

MR. SPEAKER: If no body is moving the motion then I am going to the next item. Mr. Namgyal;

PROF. MADHU DANDAVATE: Sir, you have to defend the freedom of the House.

MR. SPEAKER: I have done it... *(Interruptions)*...

PROF. MADHU DANDAVATE: You are not prepared to refer it to the

Privileges Committee.... *(Interruptions)*.

SHRI BASUDEB ACHARIA: Sir, why don't you refer it to the Privileges Committee?... *(Interruptions)*

MR. SPEAKER: How can I do it? Move a motion. Why are you shirking your responsibility now?

PROF. MADHU DANDAVATE: Because we have no faith in the brute majority of the House.

MR. SPEAKER: Look here. If you talk about majority, majority and minority is there in the Committee also.... *(Interruptions)*

PROF. MADHU DANDAVATE: Just as Fundamental Rights, the freedom of speech and the privilege of the House cannot be treated at par with other powers.

[Translation]

MR. SPEAKER: Mr. Prof., I respect you but at the same time I am not afraid of you.

[English]

PROF. MADHU DANDAVATE: Will you treat at par any of the resolutions in the Parliament and the demand for the freedom of speech? Are they to be treated on par? Just as the Supreme Court does not put the Fundamental Rights and other issues on par... *(Interruptions)*.

MR. SPEAKER: I have assured this House time and again that there is no question of curbing of speech or freedom of expression in this House, and there cannot be any question on that score. This is only a question now about this thing. If you want to give a motion, give it... *(Interruptions)*.

PROF. MADHU DANDAVATE: Can they take away our freedom by majority vote, Sir?

MR. SPEAKER: No question.

PROF. MADHU DANDAVATE: They cannot take away our freedom of speech in this House and our privilege by majority vote.

MR. SPEAKER: That is not allowed.

PROF. MADHU DANDAVATE: Sir, it cannot be tolerated.

SHRI ARIF MOHAMMAD KHAN: Sir, I am on a point of order.

MR. SPEAKER: Yes, what is your point of order?

SHRI ARIF MOHAMMAD KHAN: Sir, my point of order is that this is a very serious question... *(Interruptions)*.

MR. SPEAKER: That is why I did it.

SHRI ARIF MOHAMMAD KHAN: Sir, just one minute. I won't take even one minute, Sir. Sir, this question is involving interpretation of the Constitutional provisions... *(Interruptions)*.

MR. SPEAKER: I have done it.

SHRI ARIF MOHAMMAD KHAN: Sir, just a moment. Please let me complete. All those who have given the notice of privilege, have got information from Lok Sabha Secretariat only this morning. I think this matter is too serious.

Sir, this matter is most serious....

MR. SPEAKER: No point of order.
(Interruptions)

SHRI DINESH GOSWAMI: Sir I have given a notice.

(Interruptions)

MR. SPEAKER: Now, Matters under Rule 377—Mr. Namgyal;

(Interruptions)

SHRI DINESH GOSWAMI: Mr. Speaker, I have given a notice that under Rule 227 the hon. Speaker may refer the question of privilege to the Privileges Committee.

(Interruptions)

PROF. MADHU DANDAVATE: Sir, we appeal to you. *(Interruptions)*. That is not for the House, that is an appeal to you.

SHRI DINESH GOSWAMI: You can decide, Sir.

MR. SPEAKER: No, I can't. It is for the House now.

(Interruptions).

MR. SPEAKER: I have given my permission. What they asked me was to seek permission to raise it in the House, and I have done it. Now, it is for the House to decide what to do about it.

SHRI DINESH GOSWAMI: Should it be put to the vote?

(Interruptions)

MR. SPEAKER: I have received a motion which says.... *(Interruptions)*.

At this stage, Prof. Madhu Dandavate and some other hon. Members left the House.

MR. SPEAKER: Now, Matters under Rule 377, Mr. Namgyal.

15.02 hrs.

MATTERS UNDER RULE 377

[English]

Demand for reviewing priority allocation of seats in Indian Airlines Services operating in Ladakh Sector

SHRI P. NAMGYAL (Ladakh): Twenty seven priority seats of Indian Airlines already stand allocated to various State and Central Government organisations located in the Ladakh sector, such as Deputy Commissioner of Leh and Kargil, the ITBF, the ITBP, the BSF, the Special Bureau and the Army etc. Recently the Indian Airlines authorities have allocated another 40 seats to the Army thereby

making the total allocation of priority seats to 67 leaving only 28 seats to the general public including those for tourists; the total capacity of a Boeing Plane operating in the Ladakh sector being only 95 passengers as against 126 on the other sectors. The Leh-Srinagar road being closed to traffic due to snow at the Zojila, the public has no other alternative other than the Indian Airlines for exit from Ladakh. This is causing extreme difficulties and inconvenience to the public. Besides, the Army have their own regular flights to and from Ladakh.

I, therefore, urge upon the Government to restore the earlier position by releasing the 40 seats for the general public.

(ii) Demand for Funds for Operation Flood for Bhandara District of Maharashtra.

SHRI KESHAORAO PARDHI (Bhandara): Bhandara district of Maharashtra is being neglected under the operation flood programme of National Dairy Development Board in spite of the fact that it is a backward district and has great potential for dairy development. NDDB continues to post its officers and finance heavily in favour of the already well developed districts of Maharashtra like Kolhapur, Pune, Jalgaon. It has not only withdrawn its officers from Bhandara, but also stopped financing it. It has financed Kolhapur to the tune of Rs. 10 crores but has not provided even one per cent of that for Bhandara.

Hence, I appeal to the hon. Minister of Agriculture to advise suitably the Operation Flood authorities to pay full attention without any delay towards the development of Bhandara.

[Translation]

(iii) Demand for reconsidering the proposal for intertransfer of certain villages of Uttar Pradesh and Madhya Pradesh

SHRIMATI VIDYAVATI CHATURVEDI (Khajuraho): Mr. Deputy Speaker, Sir, we have come to know that there is a proposal to amalgamate several villages of Chhatarpur, Panna and Tikamgarh districts in Bundelkhand area of the State of Madhya Pradesh with Uttar Pradesh and to give certain villages of Uttar Pradesh to Madhya Pradesh in lieu thereof. It is totally improper and unjustifiable. It is because most of the villages of Madhya Pradesh which are being given to Uttar Pradesh are more developed and also very important from agricultural and industrial point of view. But the villages of Uttar Pradesh which are being given to Madhya Pradesh are totally undeveloped and back in electricity, road and other basic amenities.

As such the people of Madhya Pradesh are not at all prepared to give the villages of their area and to take the proposed villages of Uttar Pradesh. A big conference of village Panchs, Sarpanchs, Presidents of the Districts, Chairmen of the district panchayats and other representatives of the people was held on 3 December, 1987 at Niwari in Tikamgarh district (Madhya Pradesh) in which the proposal of this amalgamation was vehemently opposed and condemned while expressing strong resentment and anger against this proposal, the Sarpanchs maintained that an injustice is being done to them by transferring developed villages of their area to Uttar Pradesh in lieu of the undeveloped villages of Uttar Pradesh.

Earlier also several princely States of Bundelkhand had been merged with Uttar Pradesh at the time of reorganising the States.

If it is considered necessary to inter-transfer certain villages of Madhya Pradesh and Uttar Pradesh, those villages of Uttar Pradesh viz. Mauranipur, Sakrar, Baruasagar and Lalitpur; etc. falling within the boundary of Madhya Pradesh may please be given to us.

[Shrimati Vidyavati Chaturvedi]*

If it is not done so, it is requested that Status-quo may please be maintained.

(iv) Demand for allocation of funds on priority basis for irrigation schemes for Chhota Nagpur region of Bihar

SHRI YOGESHWAR PRASAD YOGESH (Chatra): Mr. Deputy Speaker, Sir, Chhota Nagpur is a very prosperous area of Bihar in view of its mineral resources. Due to availability of several minerals like coal, iron, copper, uranium, graphite, bauxite etc. the Central Government earns more revenue as compared to that earned from each of other States. But this area has remained most neglected so far as the development of its farmers and the land is concerned. Though minerals of this area have been extracted on a large scale very easily, yet the development work has been very negligible, particularly nothing has been done for providing facilities in that area, despite large sources of water available there. Only one lift irrigation scheme has been prepared for Chhota Nagpur and its adjoining hilly areas and plateaus, but this scheme is not being implemented properly.

So far as the river irrigation schemes are concerned, some schemes have been prepared since the early days of independence, but these schemes have not been translated into action. For example, schemes like Auranga Reservoir scheme, Tillaiya Dhadhar, Mohane River, Amba Khat, Bhagiya River, Nilajan, etc. are still pending. In our area there is a river Nilajan, which is also called Phalegn and is famous for its underground flow. In the bed of this river a number of pump set can be installed to provide irrigation facilities to thousands of acres of land very easily. Some of the farmers have made experiments in this regard privately and have achieved a lot of success in it. I would like to request the Go-

vernment to allocate special funds for these schemes on priority basis and start work to implement these schemes without delay.

[English]

(v) Demand for early sanction for the establishment of an export processing zone at Chandaka near Bhubaneswar (Orissa)

SHRIMATI JAYANTI PATNAIK (Cuttack): In 1983, the Trade Development Authority of India had prepared feasibility reports on the establishment of new Export processing zones in the country. On the basis of the feasibility reports, the Government of Orissa had submitted a proposal before the Union Commerce Ministry to set up one such Export processing zone either at Chandaka Nuclear Industrial Complex or at Paradeep. But it is regrettable that none of these two places has been included in the 7th Plan for the location of Export processing Zone on the pretext of resources constraints.

The Government of Orissa have earmarked necessary land at Chandaka for establishment of the Export processing Zone. The Government of India will have to spend only Rs. 12 crores as initial expenditure. In the meanwhile, such Export processing Zones have been set up at Falta, Madras, Cochin and Noida in addition to the existing facilities at Santacruz and Kandla. The establishment of at least one Export Processing Zone at Chandaka will go a long way in development of the State. The Non-Resident Indians have also evinced interest in the same.

As such, I urge upon the Government of India to accord early sanction for the establishment of an Export processing zone at Chandaka near Bhubaneswar in Orissa.

(vi) Need to develop Hope Island and Pishikala Lanka in East Godavari district as tourist spots

SHRI SRIHARI RAO (Rajahmundry): The former sandspit known as Hope Island near Kakinada Port offers excellent facility for being developed into a beautiful tourist centre. The Sandspit which is 16 KM long and one KM wide had been acclaimed as one of the most beautiful spots for attracting international tourists. This island remained unnoticed so far by the Development of Tourism. Similarly, Pichukal Lanka in East Godavari district of Andhra Pradesh, is another spot which could be developed just like Brindavan Gardens. I request the Minister of Tourism to get these spots inspected and developed immediately.

[Translation]

(vii) Need to develop a National Park in Vijaipur—Karhal in Chambal region of Madhya Pradesh

SHRI KAMMODILAL JATAV (Morena): Mr. Deputy Speaker, Sir; there is a vast hilly area in Vijaipur Karkhal development blocks of Morena district in Chambal region of Madhya Pradesh. There are high and low mountains in the area which are in no way less than those of Keskhal of Bastar district. In this hilly areas lions, deer, stags, bears, tigers, wild cats and birds are found, but birds and animals are rarely seen in the area. It is because of total lack of roads in the area. Beautification of these mountains has not also been done so far. If Vijaipur and Karhal development blocks are connected with roads and a National Park is developed in the area and a rest house is constructed there by the Government, tourists in thousands from India as well as abroad will visit this place to see the birds and animals of Vijaipur and Karhal.

[English]

(viii) Demand for restricting the import of edible oil to Safeguard the interest of cotton growers.

SHRI KADAMBUR JANARTHANAN (Tirunelveli): Since the declaration of the new policy to import

edible oil in July-August, the Cotton seed price which was ruling at Rs 420 to Rs. 500 per quintal, had suffered a steep fall of 25% to 35%. The present ruling price of cotton seed is Rs. 280 to Rs. 320/- per quintal. Owing to this steep fall of cotton seed price, there is every likelihood of the price of unginned cotton being affected. Thereby it will deprive the cotton growers of remunerative price for cotton.

Since the new cotton season is ahead, the Government must come forward to safeguard the income of cotton growers by restricting the import of edible oil from the new year season onwards.

15.15 hrs.

DIRECT TAX LAWS (AMENDMENT) BILL

[English]

MR DEPUTY SPEAKER: Now we are going to take up item No. 19. Shri Narayan Datt Tiwari to move that, the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964, be taken into consideration.

THE MINISTER OF FINANCE AND MINISTER OF COMMERCE (SHRI NARAYAN DATT TIWARI): Sir, I beg to move:*

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits), Surtax Act, 1964, be taken into consideration".

Sir, this amendment Bill and the provisions that are reflected in this Bill have been the subject matter of debate and discussion throughout the

*Moved with the recommendation of the President.

[Shri Narayan Datt Tiwari]

country for the last so many years. My predecessor had laid on the Table of this House on August 1986, in accordance with what was mentioned in the long-term fiscal policy a simplification and rationalisation of direct tax laws discussion paper which was laid on the Table of this House and was the subject matter of intense discussion in the Press, among the economists, the Chambers of Commerce and Industry, individual taxpayers and Parliamentarians. It has been, on the basis of these responses from Members of Parliament and Economists that this Bill has been prepared, as a consensus. It contains several provisions which are already known to Members through the discussion paper which was laid on the Table of this House in 1986. This proposes to make a total shift from the concept of assessment of income to the concept of determination only of additional tax or refund, as the case may be. Once the return of income-tax is filed and acknowledgement thereof is issued, the proceedings will be deemed to have been completed and the Department will not have to pass an Assessment Order in each and every case. However, if the Taxpayer has failed to pay the entire tax and interest before submission of return by way of advance tax or self-assessment tax, he will immediately become an assessee in default and will render himself liable for recovery action. Where excess amount has been paid, he will be entitled to a refund automatically. This means, simplification of the procedure for assessment will be in line with the policy of reposing trust in the taxpayers so as to encourage voluntary compliance. So, this simplification was being talked about since a long time and it was the main feature of the simplification and discussion paper. We are now providing for that. It also reflects the decision to introduce a simple system of mandatory interest to compensate the Government for

the loss of revenue and also to deter the assessee for repeating the default by replacing the existing provisions which gave the assessing authorities discretionary powers to levy penalties as well as interest for the same default.

Again, this Bill proposes to replace the existing concept of allowing different accounting years for different sources of income by a provision for a single uniform accounting year for purpose of taxation which will be applicable to all assessees irrespective of the source of income. This feature was also reflected in the discussion paper proposed last year. Such a decision will ensure that the rate structure applicable to the income earned during the same period by the same category of taxpayers is the same. This will also obviate manoeuvring the period of accounting to reduce tax liabilities; Due dates for filing of returns will be staggered so that heavier pressure of work at a particular point in a year will be got over. This type of situation could not be there; due dates for filing of returns will be staggered.

Now, in this amendment, it is also proposed to allow deductions in respect of payment to approved scientific research associations, University, College or other institutions as also in respect of payments to rural development fund and payment to approved associations and institutions for carrying out programmes of conservation of natural resources in the same manner as donations to charitable institutions.

A new scheme relating to the tax treatment of charitable institutions is proposed to be devised which will take within its fold all the institutions, trusts, etc., carrying on philanthropic and other activities of national importance. This scheme will simplify the law and will ensure that charity remains the dominant objective even of a business held in trust.

It also provides for a nominee of the Central Board of Direct Taxes to be put on the governing body of the trust/institution, etc. This will be a safeguard to prevent tax evasion through identified modes of abuse of business trust. It will include denial of exemption to trusts etc., which carry on such risky business as that of shares and securities, speculation, lotteries, etc. This will also be anti-evasion measure when this Amendment is accepted. Provision for donation will be liberalised by removing the monetary ceiling of Rs. 5 lakhs in this regard.

It is also proposed to extend tax concessions to mutual funds by emptying the income and the capital gains of such funds from income-tax and wealth-tax subject to certain conditions and also to allow investors the benefit of deduction under section 30L of the Income-tax Act within the existing limits and sub-section (1A) of section 5 of the Wealth-tax Act.

As a measure of rationalisation of the scheme of taxation of firms, the share income of the firm will not be taxed again in the hands of the partners. However, payments made by the firm to the partners on account of interest, remuneration, etc., will be taxed in the hands of the partners.

Another important provision is that the existing requirement of registration of firms will be dispensed with. This is another simplification measure.

The procedural provisions and the provisions dealing with jurisdiction, interest, penalties and prosecutions in the Wealth-tax Act and the Gift-tax Act are proposed to be amended so as to bring them in line with the corresponding provisions in the Income-tax Act.

The basic aim being the simplification and rationalisation of the law and procedures relating to direct tax-

es, the proposals cumulatively are revenue neutral. The primary emphasis is on meaningful tax reforms rather than tax increases or tax reductions.

The provisions of the Bill will extend to the whole of India. The majority of the provisions of the Bill shall be brought into effect from 1-4-1989. However, some of the provisions will come into effect from 1-4-1988, in particular those relating to delegation of powers. This type of enforcement will enable everybody concerned to adjust himself to the requirements of the amended law.

Since this simplification Bill is as a result of the deliberations for so many years and since this represents a general consensus, it should be acceptable to the House.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964, be taken into consideration."

Mr. Madhav Reddy, are you moving your Amendment?

SHRI C. MADHAV REDDY (Adilabad): Yes, Sir.

MR. DEPUTY-SPEAKER: Dr. Chinta Mohan is not present.

SHRI C. MADHAV REDDY: Sir, I beg to move:

That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964, be referred to a Select Committee consisting of 21 members, namely:—

- (1) Shri Basudeb Acharia
- (2) Shri Bhattam Sri Rama Murthy
- (3) Shri Somnath Chatterjee
- (4) Shri Saifuddin Chowdhary

[Shri C. Madhav Reddy]

- (5) Prof. Madhu Dandavate
- (6) Shri H. A. Dora
- (7) Shri Dinesh Goswami
- (8) Shri Indrajit Gupta
- (9) Shri V. S. Krishna Iyer
- (10) Smt. Geeta Mukherjee
- (11) Dr. A. K. Pate]
- (12) Shri Balwant Singh Ramoowalia
- (13) Shri V. Sobhanadreeswara Rao
- (14) Shri E. Ayyapu Reddy
- (15) Shri K. Ramachandra Reddy
- (16) Shri Amar Roypradhan
- (17) Shri Manik Sanyal
- (18) Shri Piyus Tiraky
- (19) Shri Janardhana Poojari
- (20) Shri K. P. Unnikrishnan; and
- (21) Shri C. Madhav Reddy

with instructions to report by the first day of the next session.

Mr. Deputy-Speaker, Sir, I rise to oppose the Bill as it has been brought before the House today. But before I go into the various provisions of this Bill, I would like to point out that, just as they did in the last Session when on the last day an Expenditure Tax Bill was brought, such a bulky Bill as this running into 214 pages, having about 190 Clauses, with five Chapters, has now been brought before us and we are now being asked to comment on this. I know that the recommendations of the various Committees were before us for quite some time; the discussion paper on simplification of the direct tax laws was also before us for more than one year, but there are a number of Clauses of the three Acts which had been amended and the discussion paper deals with only certain basic policies, I don't think that is enough for us to appreciate various provisions of the Bill. Four Acts are being amended. Sir, I don't understand where was the hurry? Why should you be in any hurry to bring such

a bulky Bill on the last day or the last but one day of the session?

I went into the memorandum which was placed before us which speaks:

"the proposal entails a number of changes by tax-payer in the method of amendment for income tax purpose; and about numerous administrative changes by the Income-Tax Department with effect from 1-4-88".

It is necessary to give sufficient time to the tax-payers and the administrative departments to make preparatory arrangements for effective implementation of the provisions of this Bill. What are the preparatory arrangements except by way of framing the rules, by way of delegated legislation? I do not think, there is any preparatory arrangement and that too, how many clauses you are giving effect to in 1988? On 1st of April, 1988, only a few clauses are coming into effect. Substantial clauses are coming into effect only on 1st of April 1989 which means you have more than one year. You have more than one year to give effect to various clauses to think very carefully in framing the rules under various provisions to give effect to this Bill.

Sir, we have not even considered this in the Business Advisory Committee as to how much time is to be allotted to this Bill. It is a proposal that two hours should be allowed. The Business Advisory Committee is just sitting. I am a Member of the Committee and I am not able to go there because I have to speak here on this Bill. My point is that where is the hurry to bring this Bill, such a bulky Bill. There are many clauses. Just now, the Hon. Minister has pointed out various clauses dealing with income tax. Income Tax law has become complicated during the last twenty years. When you are trying to simplify the law and rationalise the law in several respects sufficient care should be given, sufficient

time should be available to see that again you do not have to come forward before this House for amendment.

Now, Sir, there is a corrigenda before us consisting of about seven pages. There are so many mistakes that I could not follow. What is this? With all these mistakes which had cropped up in the Bill, the printing and other mistakes contained in the seven pages and with all these clauses which had been touched upon, what justice can we do to this Bill? Why should you do this? Just as I said earlier, this was done in the case of Expenditure Tax Bill last time and this is the second time. I request the Hon. Members to ponder over it and to see that my amendment is accepted and Bill is referred to the Select Committee. And then you can advise the Select Committee to see that the Report is presented on the first day of the Budget Sessions so that you may have three months' time to consider this Bill.

Sir, one more reason why I want this Bill to be referred to the Select Committee is that the Hon. Minister has said, rightly so, that a number of institutions had been consulted during the last one year or even earlier. It was because the long-term fiscal policy was before us. But who are those people who have been consulted? Most of them are the people certainly the tax-payers and some of them are the organisations like Chambers of Commerce and several other organisations etc. etc. which may be interested in tax reduction.

And you said Members of Parliament have also been consulted. I don't know. I have not been consulted in any case. But the most important agencies which had to be consulted in this matter are the State Governments. As far as the Income Tax is concerned, excluding the Corporate Tax, almost the entire proceeds go to the States. You are only a collecting agency. 85 per cent goes to the States. They are

affected. Why should you not consult them? You never consulted them you never referred the Bill to them. I just, today, asked our State Government to know whether a Bill has been received by them from the Finance Ministry and they said they don't know anything about it.

15.30 hrs.

[SHRI SHARAD DIGHE in the Chair]

The State Governments, under the 8th Finance Commission recommendations, get about 85 per cent from the personal Income Tax revenue. Of course, we don't get anything from the Surcharge; we don't get anything from the Corporate Tax, in spite of the fact that the 6th Finance Commission 7th Finance Commission and the 8th Finance Commission recommended that this should be considered because the Corporate Tax is increasing and the personal tax income is dwindling and this demand of the States should be considered. I hope the 9th Finance Commission is going to consider this.

Similarly a 5 per cent Surcharge has been imposed recently. As a matter of fact, the surcharge was abolished in 1986, and rightly so. The whole idea was that the Surcharge should be abolished and merged with the Income Tax, so that the States may get the revenue. So long, the Government had been imposing Surcharge so that the States are deprived and then work revenue goes to the Central Government from income tax. Well, on the recommendation of the 8th Finance Commission, that has been discontinued. But again you have introduced the Surcharge. Of course, for good reasons. They say it is for combating the drought conditions for a short period. They are likely to get about Rs. 250 or Rs. 300 crores. But certainly that revenue must go to the States. That apart, my point is that the State Governments should have been consulted and their views should have been taken before the Bill is brought before this House.

Coming to the various aspects of the Bill, just now the Hon. Minister has pointed out the main object of the Bill. It is very laudable because it is very clearly mentioned in the discussion paper itself.

[Shri C. Madhav Reddy]

That is to repose trust in the tax payers. Well, so far we had been thinking that the tax payer is a *chor*. But now we realise that that is not a correct policy and we are admitting now that the tax payer is not a dishonest man. His honesty should not be doubted unless the contrary is proved. It is a very good principle.

Then we have incorporated certain things to see that there should be a voluntary compliance. Under the concept of voluntary compliance you said that there should be no assessment order from the Department. The self assessment has to be made alongwith the returns when the returns are filed by the tax payer and that should be treated as an assessment order. The only condition we are insisting is that he should pay the tax first and then file the returns. I don't know how does it work. It is very good to think, to proceed on the presumption that everybody is honest. But we have to be realists. What are the conditions today? I am telling this because we must have always the interest of the States in mind. When you are the collecting agency on behalf of the State Governments and the State Governments are depending so much on your income tax for their resources, what are we doing. Are we doing something with which the Income Tax revenue is going to come down? These are the points which have to be seen before actually we include them in the law.

The other laudable objective is taxing the real income. Of course, this has to be supported because there is no point in taxing the income which is not existing which we have been doing so far. I know the Income Tax Department had been taxing the accruals of a salary. Suppose the salary of the Managing Director of a company is fixed at Rs. 5000/- P.M. but for various reasons the company is not in a position to pay him but since there is accrual of salary the Income Tax Department is taxing this. These are the points which had been well-considered in the Bill but there are many other points which have not been included. As a matter of fact there is no provision re-

garding the national court for direct taxes. Everybody was talking of a national court and there was mention of this in the policy statement that there should be a national court so that the various cases which are pending today in various High Courts and Supreme Court about 35,000 cases are pending—there should be a separate court. I do not know what happened in the Ministry. Was there any clash between the Ministry of Law and Finance on this? I do not think there is any justification for the Ministry of Law to take objection to this proposal. If the Finance Minister has any problem let him take our help. Let him refer it to the Select Committee. We will sort it out. My point is if there are any differences between the various Ministries there is no justification for giving up a proposal which is a very sound proposal.

The Minister said just now that this Bill is revenue neutral. I do not think it is so. It cannot be revenue neutral. Here not only you are giving exemptions but you are also taxing the charitable trusts to the maximum extent. Then you are also charging the partnership firms to the maximum extent. I am in favour of charging them because I know how the leakage of income tax revenue goes on because of various firms having bogus partners and paying nothing to the Government. Today the firm tax is a negligible tax. We support that they should be charged but the point I am making is that it is not revenue neutral. There is expenditure which is going to be incurred additionally because of this Bill. Now we have Directorate General for tax Exemptions. I think it has already come into existence. Even before the Bill is passed the Directorate General has come into existence. Already is an expenditure being incurred for Directorate of exemptions. We welcome this. But the point is that there should be no duplication. In addition to the Board that we have, if we have a separate Directorate-General for exemptions with additional staff and if there is going to be duplication, then no positive purpose will be served by having this Directorate.

Coming to the expenditure tax which I have been mentioning, various committees

have recommended that there should be an expenditure tax. The committee under the chairmanship of Dr. Raja Chelliah had recommended that expenditure tax should not be imposed in place of the income-tax but it should be a part of the income-tax. The principle of expenditure tax should be incorporated in the present income-tax structure. That is the clear recommendation given by the Dr. Raja Chelliah Committee. Why that has not been accepted?

Now we had one small Bill, which we passed in the last session. But that is nothing—the Bill under which we are now charging the hotel bills and the foreign exchange is released to the foreign tourists. Ten per cent of the hotel bills and 15 per cent on the foreign exchange released, that is nothing. That is not the idea of an expenditure tax. It has been wrongly described as an expenditure tax. The whole idea was to see that there is a curb on the black money. The expenditure tax should be made a part of the income-tax. For that, you will have to take a decision on. A comprehensive Bill should have been brought before this House.

The effective deterrence against tax evasion is another object. Now what are the provisions which deal with the effective deterrence? There are very few provisions which relate to the effective deterrence against evasion in this Bill. The tax evasions are going on uninterruptedly for several decades. We are not able to control the evasions.

Similarly about the leakage, certain provisions have been included in the Bill to control certain revenue leakages, such as exemptions or allowing the expenditure not to be taxed. I don't think these provisions will effectively control the revenue leakages which are going on continuously in this country.

Regarding the harassment, everybody believes that there is harassment. The idea is that it should be minimised so that the discretionary powers of the Income-Tax Officers may be minimised. By minimising such discretionary power we can reduce the harassment. But I don't see any important clauses which really minimise the discretionary

powers of the officers. Today, the officers can call anybody and can do anything. The assessment order need not be passed by him. But I am sure, every assessment paper or the return which come from the assessee will be looked with a suspicion. The officers will have to start investigation, may be within six months or whatever the time limit we are fixing in the same financial year. It is possible for him to call the people, to harass them, to give notices to make an investigation, to do all types of things. The only thing is that he cannot go back to the earlier accounts. I do not know because it was not clear to me whether he can go back and re-open the entire account. I do not know whether he can do so under this Bill or not. But everybody feels that harassment is going on by the officers and that has to be curbed. I know one case in which the company has appointed dealers and distributors all over the country. But the commissions received by the dealers and distributors have been added on to the income of the principal company untaxed. Several such complaints have come to our notice. Similarly, they can re-open the accounts the moment they have any suspicion. My point is that there should be more effective provision put in this Bill so that the harassment by the tax officers will be curbed. We do not have sympathy towards the dishonest taxpayers but at the same time, the treatment towards the tax-payers should be such that there should not be any harassment on them.

Next is the tax on dividends. Several Members have been speaking about it on the Floor of this House that it amounts to double taxation. The dividends of the companies should not be taxed. I do not agree with such an idea but certainly I would support the idea of not taxing the dividends which go to the non-assessee. If the assessee gets the dividends and that dividend is added to his income and if it is taxed, we have no objection. But because of that dividend, if he is going to become an assessee, naturally he is a

[Shri C. Madhav Reddy]

small man; he has no taxable income with him but if he is a shareholder and getting dividends and those dividends are added to his meagre income, then he becomes an assessee. Such small people should not be brought into the tax net and they will have to be exempted and this has to be considered.

Now, regarding tax exemptions. We have a limit of Rs. 18,000 but the effective exemption limit is upto Rs. 28,000. Today we do not have the exemption limit linked to the cost of living index and that is the reason why every year there is a demand for enhancement of the limit. Thus we go on increasing the exemption limits. As a matter of fact, it is because of the inflation and rise in prices. There should be a permanent linkage of the exemption limit with the cost of living index just as in the case of salaries and dearness allowances which are automatically increased. Every year we are going on increasing the dearness allowance, if it is necessary to increase exemption limit let us do so. These are the points which I would like to make. But the major point is that this is a Bill which cannot be considered in such a hurry. I am sorry that with all my little knowledge that I have about the tax laws, I was not able to appreciate many of the provisions, I was not able to devote my time and it would take 8 days for me to do so. I urge upon the hon. Minister to agree for reference to a Select Committee even if he does not have time to consider this motion, let us defer the consideration of the Bill. I find that for such a Bill, not even a single amendment has been given notice of, except the one which has been given by me. That means there was no time for the Members to go through such a bulky Bill. In view of this, I request that the Bill be referred to a Select Committee.

[Translation]

SHRI HARISH RAWAT (Almora):
Mr. Speaker, Sir, I welcome this Bill.

Three things have been made clear by the hon. Minister of Finance while moving this amendment Bill. One is that the Government wants to simplify the procedure of assessment of income tax so that common people do not find any difficulty in this regard, the harassment to them is reduced to the minimum and the Government may rely upon the tax-payer.

Secondly there should be a provision for a stringent punishment to those who evade tax. So that such people do not go scot free by taking the advantage of some loopholes in the law.

Thirdly it has been proposed in this Bill not to levy taxes on those sectors where more expenses have to be incurred to realise taxes.

This Bill definitely requires a long debate. The experts in this field have since given their opinion on amendments to the tax laws of this nature in and outside the House for more than once. Accordingly an assurance was also given at the time of placing a long term fiscal policy before the House. The Hon. Prime Minister had also made a mention of it at the time of introducing the Finance Bill. The Government has brought forward this Bill accordingly.

The hon. Members of opposition, who have taken part in the discussion have expressed their agreement to the main objectives of this Bill. They have not disagreed to the Bill and I feel that the hon. Minister of Finance has not left any scope for any disagreement. It should be seen that the amendment proposed to be made through this Bill should be so effective so that we can get rid of the problem of tax evasion.

To-day we find that the most criticism is based on the fact that the tax evaders are finding as many ways to evade tax as the number of laws which have been enacted by the Government. Even though the officers

and staff of the Income-Tax Department work with utmost strictness and honestly, the tax-evaders are so powerful that some how or the other they go scot free. This is the reason that crores of rupees are lying with people as black money which could have been utilised for the benefit of the poor people, for building the destiny of the country and for various development works. The people possessing black-money are being shown respect in the society. It is mainly due to the fact that we have not been able to connect the people's psyche with the tax-law.

I would like to express my thanks to the hon. Minister of Finance for rousing confidence in the minds of the people who used to be untrusted previously. Now it has been left to the tax-payer to submit his returns honestly in time. But it has to be seen that it has been an old habit with the people for years and has become a natural phenomenon with big people to evade tax. There are certain companies which are not required to pay tax due to some system which they have adopted to avoid payment of taxes. What provisions are being made against such companies? The Government should look into it. It has been proposed to set up a directorate which will look into the matters of tax exemption. In those sectors which have been given tax-exemption, include scientific research, rural development programme, carrying out any programme of conservation of national resources and afforestation of waste land for which a provision of Rs. 2000 is being made. In this connection I would like to urge the hon. Minister of Finance that it will not be appropriate to grant exemption to any industry or an entrepreneur who carried on any scientific research for any particular consumer item with a view to upgrade their products for the purpose of making it more saleable and more popular among people and thus to earn more profit thereby.

Exemption should be given to such a person who invent some technology which

can change the fate of the rural areas and which can make a conventional bullock-carts more useful. But it will be appropriate if exemption is given to an industrialist who spends money on any research to make their products more saleable.

Similarly, through you, I would like to point out to the Hon. Minister of Finance that there is a proposal to grant exemption in the name of afforestation in this connection I would like to say that there are big entrepreneurs not only National but also in the villages of Uttar Pradesh who are undertaking afforestation work with a view to promote their own industry by making use of such forest products. The Wimco comes under this category. If any tax-exemption is given in case of afforestation, these people will claim to be eligible for that. The Government is encouraging big people to undertake eucalyptus plantation who have set up paper industries. This causes losses to the country and the water level goes down. The earth is becoming drier in every respect. I would like to urge the hon. Minister of Finance that at least no exemption should be given to people in these fields. Exemption should be given to those people who do any useful work for the society; who undertake afforestation for producing fuel wood for the local people, who undertake afforestation for developing new varieties of fodder, and who undertake of develop waste land. Everybody will welcome this step. But exemption should not be given to the people who have set up paper industries and undertaken afforestation to produce eucalyptus trees and have changed big farms of eucalyptus into forests.

It has been mentioned in the Bill that a separate directorate will be set up. I am of the view that the objectives of this directorate will not be achieved by simply entrusting to this Directorate the work of making assessments for granting exemptions. This directorate will prove more useful if it ensures that the exemption is being utilised properly and also undertakes monitoring work. Otherwise it would not make any difference in the present position.

[Shri Harish Rawat]

The directorate should have the power of monitoring to see if entrepreneurs, etc. to whom exemption is being given, are not investing money in this field only to avoid payment of taxes.

Though this bill has been brought forward in a haste, it fulfils the long aspirations and long standing demands of the people and all of us should welcome it.

[English]

MR. CHAIRMAN: Shri Narayan Choubey, you please be on your legs and continue for sometime because at 4 o'clock we have to take up the discussion under Rules 193.

SHRI NARAYAN CHOBEY (Midnapore): Sir, everybody stands on his/her legs only and not on the head.

Sir, this is a very bulky Bill. It has been circulated only on 11th November 1987 and we are discussing it today...

MR. CHAIRMAN: You may continue next time.

16.00 hrs.

DISCUSSION RE, REPORT OF
INQUIRY INTO EVENTS AND
CIRCUMSTANCES LEADING TO
ARRANGEMENTS ENTERED
INTO WITH FAIRFAX
GROUP INC.

[English]

MR. CHAIRMAN: Now, we will take up Discussion under Rule 193 on the Report of Inquiry into events and circumstances leading to the arrangements entered into with Fairfax Group Inc., laid on the Table of the House on 9th December, 1987.

Shri Indrajit Gupta.

SHRI S. JAIPAL REDDY: (Mahbubnagar): Sir, I am on a point of order whenever the reports of commissions are laid on the Table of the House, it

is obligatory on the part of the Government to enclose therewith a memorandum of action taken thereon. In the instant case, the report has been placed on the Table of the House without the memorandum.

MR. CHAIRMAN: Memorandum on Action Taken is also enclosed.

SHRI S. JAIPAL REDDY: No Sir. Let me read out what it says:

"Government have accepted the findings of the Commission. Various recommendations of the Commission are under examination..."

Acceptance of the recommendations of the Commission does not amount to action taken. What other action in the wake of the report has been taken? That is what I am referring to.... (Interruptions)

SHRI AMAL DATTA (Diamond Harbour): Just see how laws are being flouted in the Parliament.

SHRI S. JAIPAL REDDY: Sir, let me read it out fully:

"Government have accepted the findings of the Commission. Various recommendations of the Commission are under examination and action taken thereon will be placed on the Table of the House within the prescribed period under Section 3(4) of the Commissions of Inquiry Act, 1952."

Therefore Action Taken Memorandum must be enclosed along with the report.

MR. CHAIRMAN: What do you say Mr. Minister?

(Interruptions)

SHRI S. JAIPAL REDDY: Sir let me read out Section 3(4) of the Act.

"The appropriate Government shall cause..."

(Interruptions)

PROF. K. K. TEWARY (Buxar): What is his point of order Sir? Why

is he trying to obstruct the discussion?

SHRI S. JAIPAL REDDY: It is we who demanded the discussion on this issue. We are not trying to obstruct. We asked for the discussion.

MR. CHAIRMAN: He has the right to raise a point of order. Let him say what he wants to say.

SHRI S. JAIPAL REDDY: Sir, Section 3(4) of the Commissions of Inquiry Act says:

"The appropriate Government shall cause to be laid before the House of the people or as the case may be the Legislative Assembly of the State, the report, if any, of the Commission on the inquiry made by the Commission under Sub-Section (1) together with a memorandum of the Action Taken thereon within a period of six months of the submission of the report by the Commission to the appropriate Government."

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES (SHRI H. K. L. BHAGAT): What is the point of order in it? Why is he opposing the discussion?

MR. CHAIRMAN: You have yourself read that the Action Taken memorandum can be placed on the Table of the House within six months. There is no point of order.

(Interruptions)

MR. CHAIRMAN: So there is no point of order please. Memorandum of action taken has to be placed before the House within six months.

SHRI S. JAIPAL REDDY: I am asking about action taken memorandum.

MR. CHAIRMAN: It is implied both; either of them can be placed.

SHRI S. JAIPAL REDDY: When the Report is laid on the Table of the

House, it is obligatory or mandatory to place the action taken memorandum also.

MR. CHAIRMAN: Memorandum of action taken can be placed before the House within six months and not immediately. It is impracticable to expect from the Government to place on the Table of the House immediately action taken memorandum along with the report on the very same date. Therefore, I hold that there is no point of order. We can discuss this report.

Now Shri Indrajit Gupta.

SHRI INDRAJIT GUPTA (Basirhat): Mr. Chairman, Sir, the eagerly awaited report of Mr. Justice Thakkar and Mr. Justice Natrajan into this Fairfax episode is now made available to us and although as has been said just now that the Action Report according to you Sir, Will come later on, nevertheless, we have got a chance and opportunity to make some observations on the Report as it is at present before us.

Now, Sir, I would just like to remind the hon. Members that the context in which this whole Fairfax episode took place was the question of violations of foreign exchange regulations abroad. This is not a matter to be debated. It has been admitted so many times and in so many reports on the floor of the House that vast amounts of money are being illegally smuggled out of this country and deposited abroad. It is also admitted that due to various reasons, due to various factors, so far we have been singularly unsuccessful in trying to detect who these offenders are, much less to apprehend them or to punish them. But everybody agrees that it is a big drain on the country's resources, specially a country like ours which due to scarcity of resources is having to cut down on so many programmes which are meant to benefit particularly the common poorer sections of the

[Shri Indrajit Gupta]

people in our country. This is the context in which this Fairfax investigation or inquiry or whatever it is, was started and of course was not completed because midway has come this whole hullabaloo about what is this Fairfax; where did it come from, what is its nature who appointed it; what was the method of appointment, etc. etc. So, I would like to make quite clear in the beginning that whatever else this Commission's Report may or may not accomplish, one thing it has accomplished, and that is that these foreign exchange violators and particularly that company which is mentioned here against whom the inquiries were going on, i.e. Mr. Dhirubhai Ambani of Reliance Company Ltd. have gone scotfree. This is quite clear. When the Government replies to the debate, it should tell us in a more convincing way of what they propose to do in order to apprehend these criminals—I call them criminals because they are defrauding the country's resources? I will be happy to hear from the Government. Upto now, we have nothing in front of us except the fact that there are certain statutes which are in force but those statutes have proved powerless so far to catch these people.

The report of this Commission has mainly dealt within two or three issues. The Commission itself has said, at page 49 of its Report where they are discussing the nature of work of the Commission and some misconceptions which deserve to be removed—i.e. in Chapter IV at page 49 the Commission has said:

“...the work of a Commission of Inquiry is to gather materials for itself, sift the same according to their quality and relevance, and then find out for itself what the facts of the case are. The work of a Commission...”

This is important, Sir:

“The work of a Commission is of a fact-finding nature and not be an adjudicatory nature.”

So, the Commission assumes to itself the role of being an investigator of facts, finding out facts, and not primarily of being an adjudicator, which means this. Adjudication takes place in disputes. When there are two or more parties involved in a dispute, and the matter is referred to an adjudicator, then the adjudicator, after inquiry, gives a finding or a judgement or a verdict, maybe in favour of somebody, and against somebody. But they have said: ‘We are an adjudicating body. We are a fact-finding body.’

My main complaint against this Commission is this; of course, I cannot go into references of so many pages of this Report; I could do it, but it would take a pretty long time. I have read it rather carefully. My main complaint against the Commission is that the fact-finding side of its activities is much less, is minor; and the major part of its Report is completely a political sermon. I do not know if they think that that is their work, that that was the prime work of the Commission, i.e. to deliver all sorts of political sermons, I should say. For example—don't take it amiss—there is so much said in this Commission's report about the total undesirability, according to them, of engaging any foreign, private agency to go into allegations of economic offences committed abroad. One of the conclusions they have reached is that never should such a foreign agency be engaged. And why? There, they have gone into all sorts of political things—about possible links with CIA, possible links with those forces which are out to destabilize countries like India, etc. etc.

I am not for the moment going into the question of the procedure which was followed, to engage Fairfax. I think there are many things in that, which are open to question; the procedure by which this Fairfax agency was engaged. In fact—if you will bear with me—when a debate took place in this House on the 6th of April on the same subject, that is quite a long time ago, I had said—if you do not mind my quoting a few sentences from what I had said at that time:

“One big question that has arisen, that is being posed in this country, is whether

it is correct, advisable or not advisable to engage any foreign investigative agency for work of this type. My point is this: Have you got any independent machinery to carry out investigation against economic offences which are being committed abroad by our people? Have you got any adequate machinery? You have no machinery. For years and years now, thousands of crores of rupees are being smuggled out of this country. The illegal accumulation of funds abroad is being done, in gross violation of the FERA, by companies, by corporate bodies and by individuals."

So, the point I was arguing here was that at present Government of India has got no independent agency of its own to carry out such investigations abroad. But then I said—I quote:

"But I agree; if the Government decides that it is necessary to engage a foreign agency, we should be very vigilant about its antecedents, connections and the terms and conditions on which they are hired..."

"...Of course, we have to go into all that. But simply to say why should foreign agency be hired this by itself is a theory to which I cannot subscribe until you develop your own independent agency.

If there is prima facie evidence that there is being carried out flagrant violations of FERA and you are not able to catch those people because of inadequate information it may be necessary to employ a foreign agency provided you are sufficiently vigilant about the nature of that agency."

So, in April, this was the stand which I have taken; and I find Mr. Brahma Dutt is not here at the moment.

PROF. MADHU DANDAVATE (Rajapur): He finds it very embarrassing.

SHRI INDRAJIT GUPTA: I do not know, but speaking in that same discussion on the same day, April 6, Shri Brahma Dutt said as follows:

"Another thing that was said repeatedly was that there is contradiction between my statement and the statement made by Shri Vishwanath Pratap Singh. It was said that he had said something else yesterday. I would like to draw the attention of the hon. Members towards these sentences only:

There was nothing unusual, illegal or immoral about the Government buying intelligence from abroad or engaging a free agency for the same."

This is a quotation, I presume from Mr. V. P. Singh which he had previously said to which he had referred. Then on page 517 he states as follows:

"I have also said this that our relation with them was that they will give us the information and we will make payment to them for that."

Its status was not that of the RAW or the CBI. Its status was that of an informer only which furnishes information and it is paid for furnishing the information. Other important information that I had furnished is that the Fairfax Group did not furnish any vital information to the Ministry of Finance or the Government of India.

The third important thing that I had said is that we had circulated a questionnaire to the companies abroad, which related to some companies in India. We got their reply direct and through the company also. At that time I had said that it had done the job of a courier..."

Courier means a messenger who collects information from some company and passes it on to the government. Then he further states as follows:

"We did not pay even a single paise to them."

Perhaps they did not receive any information from them, thought them or the information was not considered worth while to pay a single paise to them. So, this is all that for which Mr. Brahma Dutt is on record. He has nowhere said that this is a wrong thing that was done. After all, we must remember that this is a field of enquiry in which we are dealing with

a sort of under-world; this is a criminal world, under-world of people who are smuggling, who are robbing the country, who are using all sorts of dubious means to smuggle money out of here. I think if the Home Minister was here, he would agree that when we have to investigate activities of under-world, under-cover, criminals, who are operating at this magnitude, well, sometimes you have to employ other criminals to catch them; criminals are used to catch criminals. Here I don't think any criminal was employed. But it is done; it is known everywhere in the police world; everybody knows it. You cannot say that in this under-world, you must always behave like a proper gentleman. But I still say that the method by which Fairfax was engaged even to do this job only of an informer. I think everything on record does suggest now that what was agreed with them was only that they would collect some information and pass it on and if this information is considered valuable, then they would be paid reward as informers are paid. The biggest loophole in my opinion in the way in which this company was engaged—though perhaps it may be inevitable; I do not know—was that there is nothing on record. There is nothing in writing. It was all orally done. It was all orally done.—Even the Commission has not doubted the *bona fides* of Bhure Lal and Vinod Pande, and I know—at least this is what I used to hear a few years back—that these two officers and particularly Mr. Bhure Lal had become a terror—that they had become a terror—to economic offenders. They became a terror to those people who are violating these laws of the country and violating FERA. Nowhere in this report has the Commission doubted the honesty of purpose of these officers or that they had any other motivation than to try to detect and catch the thief. But the irony of the whole thing is that this whole report comes to a conclusion which says all kinds of words, doubts and suspicions on these two officers who were carrying out this investigation and allow the offenders against whom serious charges are there to go scot-free. This shows where we are in this

country. And certainly, I will not defend the method which was employed by Mr. Bhure Lal or Vinod Pande to engage this Fairfax company. I do not know anything about this Fairfax company.

In the past we were told that Mr. Hershman has been associated with the Watergate investigation in U.S.A. and that way technically he is considered to be a very competent person to carry out this investigation. I do not know this. These are all matters that we read. But the biggest loophole in the whole affairs, in this engagement was that nothing was on record. Now, if you say, for purposes of confidentiality and all that we do not want to put anything down on paper, which may later prove to be embarrassing for us or incriminating in some way the fact remains that if these officers who are directly concerned with this affair, suppose they were not there any more, suppose they were removed or transferred somewhere else—any officer is liable to be transferred—or some mishap occurs to one of them, so that he was no longer available and there was nothing on record, nothing in the files, then certainly it would create a very difficult situation, a very embarrassing situation. Here it is said that Mr. V. P. Singh himself has given testimony before the Commission, that he came to know of the identity of Fairfax only after he had been shifted to the Defence Ministry from the Finance Ministry, before that he had given a general oral instruction that in investigating such cases the help of foreign agencies can be taken, if you consider it necessary. Which particular agency or company is to be employed, or not I do not again know that. That is what he has said. And it was only after he had been shifted to the Defence Ministry that he came to know that this Fairfax was being used. So, while he was in the Finance Ministry, he may have given this general oral direction, but he did not know—he was not told—about this particular agency. The Prime Minister, according to Mr. V. P. Singh, was told about it by him later on when he came to know about it, and the Prime Minister never objected, Mr. Brahma Dutt never objected. They have not given any

information. It says that they have really not given us any information. We have not given any information to them either. So, where does the question of this security risk come from, I do not understand, which is being so much dilated upon by these two members of the Commission? If they had access to any information which we have supplied to them, and which they can use against us, I can understand it. But even the Commission does not say that.

Now, it may be argued that any company which is located in U.S.A. must necessarily be a C.I.A. outfit. Yet it may be of course but it may not be also. Every company operating in USA need not necessarily be CIA agent. As I have said earlier, before you engage a particular agency, you must look into its background, precedents and all that. That was I suppose done by those officers. I do not know. There was nothing on record. But, if it was really such a big security risk, Sir, how is it that even two months after that—two months after Mr. V. P. Singh had been shifted from this Ministry to the Defence Ministry—till the end of May—whatever arrangements made with Fairfax permitted to continue.

AN HON. MEMBER: He was shifted in January.

SHRI INDRAJIT GUPTA: The Finance portfolio at that time had been taken over by the Prime Minister himself. If it is the contention of some hon. Members that the moment he came to know that an American detective agency has been hired, and this is too much of security risk for our country; therefore those arrangements should be terminated immediately. It has been done at the end of May. They were allowed to continue for four months. Why? Apparently, at that time, it was not considered to be such a big security risk. I do not know. Somebody from that side will have to answer.

PROF. MADHU DANDAVATE :
In the month of May, there was no risk.
(Interruptions)

SHRI INDRAJIT GUPTA: Sir, we do not want to hear from Mr. Tewary about the CIA agent because about CIA; we are very conscious about it. The fact is that

you must not disbelieve your Prime Minister after an assurance was given by Mr. George Bush, Vice President, during his last visit to Washington, that the CIA is not engaged in any destabilising operation against India. He had believed him. He came and said that with great satisfaction. You now go on shouting CIA, CIA, this means that you are expressing no confidence in your own Prime Minister, you are disbelieving your Prime Minister.

PROF. MADHU DANDAVATE:
After voting the resolution day before yesterday.

SHRI INDRAJIT GUPTA: I do not agree with Mr. George Bush by the way. I do not agree at all... (Interruptions)

MR. CHAIRMAN: Mr. Indrajitji, why don't you address the Chair?

SHRI INDRAJIT GUPTA: I am so much attracted by Mr. Tewary that I really cannot tear my eyes away from him.

PROF. MADHU DANDAVATE :
Put some lady in the Chair.

SHRI INDRAJIT GUPTA: Sir, as I have already pointed out, I am really very much worried and disturbed about the way in which this particular company was engaged, because it leaves lot of loopholes open. Now, as you know, there is a dispute going on publicly in the columns of the Press, we have said that there was such an oral arrangement, verbal arrangement. I am not worried at the moment. I am not going into that part of it. The report reads like a detective story. He came here under assumed name, he booked himself into Oberoi hotel and at the same time, Mr. Nusli N. Wadia came in; and his bill was paid for by Bombay Dyeing. I think it is of no consequence. I think these people are so daring like that and quite capable of it. I believe, I had said earlier in the debate that this was also basically a conflict between two big corporate giants in this country.

(Interruptions)

PROF. K. K. TEWARY : It is a matter of history.

SHRI INDRAJIT GUPTA : Yes, we are not interested in who wins and who loses—some may be on this side and some

may be on that side. This is a law of the capitalist jungle, this kind of fight between monopoly groups against each other, and they use all kinds of means and methods against each other. (*Interruptions*).

Anyway, what I was saying is that the element of controversy arises. Sir for example, it is reported in the Report also that all the transactions were oral and nothing was reduced to writing. Here is this gentleman, Mr. Drew McKay, Chief Counsel to the Fairfax Group. He has issued a statement from Washington on 11th December to say: "We have a written agreement", reiterating earlier assertions that the agency was hired by the Indian Government. He says that they have a written agreement. He may be telling the truth or he may not. Mr. Hershman is every now and then threatening that "I will produce whatever material I have got".

SHRI SOMNATH RATH (Aska): He is bluffing.

SHRI INDRAJIT GUPTA: It may be a total bluff. Let us hope so. I also hope so. If he comes out with something which is being concealed all this time, it would not be so good for me any people who are involved in this.

This was the way the Government was functioning. Mr. V. P. Singh was part of the Government. He cannot escape his part of the responsibility, nor can the Government escape its collective responsibility. The way the Government was functioning it is no use saying now that some bureaucrats were free to do what they like. That means, what is the relation between Ministers and bureaucrats? Of course, we know very well how the Government functions and we know how many Ministers, not all perhaps, are utterly dependent and make themselves utterly dependent on bureaucrats. And bureaucrats also keep changing, being transferred and all that. So the method by which this Government works is, in my opinion, really chaotic. About that also the Government should ponder and see whether the ways of its functioning require some drastic change or not.

Much has been made of the fact and the Commission had gone to the extent of saying that "we could not and did not summon Mr. V. P. Singh or Mr. Bhure Lal or Mr. Vinod Pande because of the intransigent stand they had taken from which we understood that they do not want to give us any information." I submit that this part of the Commission's observations are total fabrication and that can be proved from their own report. How do they say a thing like that and get away with that, I cannot understand. They have sent a questionnaire, a long questionnaire, to Mr. V. P. Singh and others. And here is the whole reply to everyone of those questions in the questionnaire which was sent to them under sealed cover. Mr. Bhure Lal and Mr. Vinod Pande, I am told, also replied to the questionnaire which was given to them by the Commission. And the Commission goes on to say "because of their intransigent attitude, what we deduce was their refusal or reluctance to give information and, therefore, we did not summon them". It is a wonderful argument for two judges sitting in the Commission.

It is mandatory under rule 8(B) and 8(C) of the Commissions of Inquiry Act—you can see it yourself—that any person or persons against whom the Commission is likely to pass strictures or whose reputation is likely to be damaged by the findings of the Commission, they should be given notices. Then whether they appear or not, it is their look out. But they must be given notices. That means, that they must be given an opportunity to appear before the Commission and submit their opinions and views and answer any questions that may be asked. A mandatory provision of the Act has been flouted, absolutely in a flagrant manner. And these two justices expect other people to follow the procedures and legal provisions when they themselves have no explanation to give except to say that these people's attitude as intransigent...

SHRI BHOLANATH SEN (Calcutta South): It is based on the basis of the answers to questionnaires.... (*Interruptions*).

SHRI INDRAJIT GUPTA: Sir, I am not yielding.

MR. CHAIRMAN : Please resume your seat. I would not, like to have such conversation. Let him make his submission.

PROF. MADHU DANDAVATE:
 Sir, he is exercising his fundamental right of ignorance....(Interruptions).

SHRI INDRAJIT GUPTA: Mr. Bhola nath Sen, you are a distinguished lawyer. Don't try to take advantage of me who has never read a book of law in my life. But you can kindly show me from this Report what is the evidence of their so-called 'intransigence' I would be very much obliged to you. They were prepared to cooperate fully with the Commission. They answered their questions. The only person to whom a notice was given as required by law, was Mr. Nusli Wadia. Well he may be an accessory to many things but he is certainly not one of the main figures involved. His own motivation may have been only that as a businessman he wanted his rival to be put in a difficult position. To him a notice was served.

THE MINISTER OF FINANCE AND MINISTER OF COMMERCE (SHRI NARAYAN DATT TIWARI): From what page of the Report are you referring to 'intransigence'?

SHRI INDRAJIT GUPTA: I will give it to you, don't worry. Sir, with your permission—because I do not think he is going to reply to me just now—I will give him the page number as soon as I finish because I would not be able to cover my points in the short time available to me. Just two or three points I want to make.

Sir, if you go through the Report, there cannot be any other conclusion except that it is a highly political document. Suddenly, after so many months as this long Report and all that took, these two gentlemen—the Commissioners—at the fag end of the Report at page 289, have added a post-script. That means after the previous page 288, where they had completed their Report, something occurred to them, by which they had to add a post-script. If you read the post-script, which is only less than a page and a half, you will find nothing new in it which warranted any afterthought.

It is the repetition of the same thing which they have said so many times and at so many places in their Report ..(Interruptions).

SHRI GIRDHARI LAL VYAS (Bhilwara): Why are you...(Interruptions).

SHRI INDRAJIT GUPTA: How can I explain it to you?

AN HON. MEMBER: It is not possible

PROF. MADHU DANDAVATE: Sir, he is incorrigible.

SHRI INDRAJIT GUPTA: Sir, I would like to say that if the mere employment of this agency in the way Mr. Brahm Dutt admits that it was done—that they were being treated as some informer or as courier or something like that who would only be given payment after they have delivered the goods—is such a big security, rich simply by virtue of the nationality of that investigating agency—they may be big crooks; I have no doubt about it if they are doing this kind of underworld work—then how is their security less compromised by for example sending their Special Security Group, Protection Group to foreign countries for training? Is their security less compromised by that? Is their security less compromised by this new proposal for sending officers for training to that same USA? They must be sent there for training and then brought back from Harvard or wherever it is. Is Harvard a place which you can guarantee is free from all CIA connections? So, how can one follow what is being said here? Yes, some methods, some practices were followed which I consider to be irregular, not desirable. No doubt about it. But the motivations of these people were never questioned, and I do not question them for a single minute. The task in which they were engaged in trying to find out and catch some of these people, was in the interest of our country and that has been paralysed half way. These two Judges, who are so much concerned about our security and all that; in page after page, do not appear to be in the least concerned about these economic violations and FERA violations which are going on. They are not worried about

[Shri Indrajit Gupta]

that at all here. Nowhere in this page they had said that destabilisation took place through economic means also, economic destabilisation. No. Why are you worried about that fellow? Who is he? What is he worth about?

AN HON. MEMBER: He is a top officer.

SHRI INDRAJIT GUPTA: Yes, yes, top officers will deal with all kinds of shoddy fellows and criminals in order to catch other criminals and some times, therefore there may be things done which are not advisable. I agree. But what happens to the main thing, the context with which I began? Therefore, if you think that by allowing these thousands of crores of money to be taken out of our country, there is no danger of economic destabilisation by that. All this destabilisation is only directly due to CIA's political activities. What about this that is going on? We are the least concerned about them. We do not make any serious efforts to catch these people. So many things have been talked about here in the last few days. What are you doing about that. Mr. Finance Minister? You should be more concerned than any other Minister because you are all the time struggling to get resources for your budget, your allocations and all your expenditure which is going up. But you are allowing these people to rob the country and take away this money and nobody is concerned about it. When one attempt that was being made perhaps not entirely a correct method had also been scathed. The only person who must be laughing up his sleeve is Mr. Dirubhai Ambani and some other people. But the way it has been said here in the report that two American Companies, one is Dupont—Dupont is a well-known name one of the big multi-nationals—and the other Chemotex, had indicated to the Government that they are prepared to give some information to the Government which is being asked for. But they will not give it through Fairfax. They are prepared to give directly to the Government. One of them said "you must send us a letter on the Government letter-head officially and we are prepared to give you information".

Mr. Bhure Lal for that reason, did it—it says here,—later on saw that an official letter with the help of our Embassy in Washington was sent to them. What information we got from those companies, I do not know. I do not suppose the Minister will reveal also whether that information has helped us in any way in this work of detection.

Sir, this is all what I want to say. I suggest that this report is hardly worth the paper it is written on. It is a witch-hunting report wants to give an alibi to the economic offenders by focussing all the attention on those officers who are trying their best to catch these criminals who are defrauding his country. Therefore, I say that this is a travesty of an enquiry and we cannot support it under any circumstances and we demand of the Government that they take more stringent measures and tell us what they are going to do about the main purpose which is to catch these criminals. Without that, Sir, we cannot be satisfied with the report like this.

[Translation]

SHRI BHAGWAT JHA AZAD (Bhagalpur) : Mr. Chairman, Sir, this Commission was constituted on 31st March, 1987, after the debate on the Fairfax issue took place in this House. The hon. learned Member who spoke before me and who has travelled world-wide, emphasised more on all the things which were not at all mentioned in the terms of reference and thus he did not touch the terms of reference, as to the purpose for which the Commission was constituted. But on the other hand, he surely pointed out what the Commission ought to have done of its own accord.

No Commission had ever been constituted till date in which two of the Supreme Court Judges would have examined these matters which were not covered under the terms of reference instead of those which were mentioned in the terms of reference.

He is resentful as to why the Commission laid emphasis in the cases of Shri Nusli Wadia and Shri Bhure Lal about whom there were no records and mentioned the facts very lightly. He being a

clever speaker laid emphasis on those points which are not mentioned here. He never revealed who was the incharge of the Finance Ministry but he did say that the hon. Prime Minister is accountable for this... (*Interruptions*)... yes, I agree and want to tell you the extent of accountability and what is meant by joint responsibility and collectiveness. If any of our hon. Members interprets it that the hon. Prime Minister should have a secretariat equal to that in East Block and West Block and that every hon. Minister should only propose leaving everything else to the hon. Prime Minister, then I beg your pardon, that is not the right meaning of collective responsibility. The meaning of collective responsibility is that the then Finance Minister has been given this much right by the hon. Prime Minister to make an enquiry, hire an agency and to maintain a proper record of it in a register after analysing every thing properly, and not the new interpretation which you want to give it.

You just look into the debate of the other day, what was desired by the hon. Members, including those of Shri Gupta's party, from the Government during this debate. Out of them Shri Somnath Chatterjee said:

[English]

"It is now admitted that the Government of India engaged a foreign investigative agency for discharging some function of the Government. There is no dispute on that. But what is of concern to us very much is that a country has been chosen and a concern has been chosen from a country whose imperialist designs are very well-known. U.S.A. prefers to destabilising the security and integrity of this country....."

"Whether it was a fit and proper concern or what are its connections with the American agencies like CIA, and FBI, it appears nobody knows...."

"I very strongly express our opposition to the selection of this type of an agency and for that matter an agency from a country whose ability to destabilise through diverse means, Governments and

systems in other countries, specially like ours is well-known."

[Translation]

The C.P.I. (M) party member expressed strongly and asked as to why such an agency was constituted, and not on the arrest of the FERA and economic offenders. I myself did not participate in this debate but within 2-3 days of the coming of Hershman's statement, we emphasised along with our young Member Shri Kumaramangalam that FERA violation and economic offences should be enquired into and even today we say that the speed with which the Government has made enquiries into FERA violation and economic offences during the past three years, and the raids conducted on Kirloskar and Bata were... (*Interruptions*)...

I would like to tell you that it is clear that how our Government took strict action in regard to the FERA and economic offences during the last three years and today I again demand along with Shri Indrajit that the Government should take strict action in regard to the FERA and economic offences, but the question is whether this was there in the terms of reference of the Commission? Was this Commission appointed to enquire into as to how FERA violations and economic offences are indulged into in America or in India? Mr. Chairman, Sir, you may kindly see the terms of reference (*Interruptions*).

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): The terms of reference were drafted by Shri V.P. Singh at that time.

SHRI BHAGWAT JHA AZAAD : I was about to say what he has said. Now it will be confirmed because the hon. Minister's word will get more weightage.

THE MINISTER OF STATE OF THE MINISTRY OF WELFARE (DR. RAJENDRA KUMARI BAJPAI): The term which was left out, had also been got added (*Interruption*).

[English]

SHRI S. JAIPAL REDDY: What were our terms of reference which were sugges-

[Shri S. Jaipal Reddy]

ted? Why are you so obsessed with Mr. V. P. Singh?

[Translation]

SHRI BHAGWAT JHA AZAD: You may please keep quiet, I am myself quite competent to deal with them. I would like to tell that in regard to the terms of reference of the commission two questions were raised in the House that action should be taken in regard to FERA and economic offences. This is what was said by us and by a few other people but not by all, some remained quiet and a few others spoke in a subdued voice that this might have happened but such a compromising speech by Shri Indrajit Gupta was never heard by us. Shrimati Mukherjee of his party had said:...

[English]

"Firstly, I fully agree that employing this American agency is not to the best interest of our country, as it transpires...."

[Translation]

And if you read Shri Indrajit Gupta's speech of today then you will see how is it compromising. What a wonderful Member of C.P.I. he is! One of his members said:

[English]

"I cannot compromise about the fair-fax appointment."

[Translation]

And another member says that that might have happened. He is a very learned person and perhaps has studied in the Oxford and the Cambridge, but I studied in an ordinary Municipal Corporation School and do not even understand his language and therefore, fearing him, I am speaking in Hindi. But I want to say that two things were said at that time. Firstly the economic and FERA violations should be enquired into. This was emphasised by me as well as by Shri Kumar-mangalaram and it was also emphasised by, as I quoted, Shri Somnath Chatterjee,

Shrimati Geeta Mukherjee and even Shri Dinesh Goswami that:

[English]

".....which according to both sides of this House seem to be of a dubious character the appointment of Fairfax."

[Translation]

Every hon. Member had emphasised this.

Now the question arises about the functioning of the Government. Two things have been said. It was not possible that the same Commission which is given the responsibility to enquire into the appointment of Fairfax, should also be given FERA and economic violations too. The fact is that if the Government had said that FERA violations and economic violations are not taking place, then, an enquiry commission would have gone into that, but the Government itself admit and is taking action. For example, Sir, the Finance Ministry under the charge of Shri V.P. Singh, conducted many raids in the premises of Tatas, Bata and Kirloskar for FERA and economic violations. Sir, do they want to falsify this fact?

[English]

SHRI S. JAIPAL REDDY: That is the reason why he had to go.

[Translation]

SHRI BHAGWATI JHA AZAD: No, Sir. He had to leave due to his efficient advisers like you who showed him the wrong way and pleaded his case in such a way that he took a wrong step and had to quit.

Therefore, I want to say that two points have been made by the hon. Members. The first relates to FERA and economic violations against which the Government has been and even now taking action. We are still emphasising that more stringent action should be taken in regard to such violations. But today's debate is on the findings of Thakkar Natarajan Commission, to discuss the basis for the findings of Thakkar-Natarajan Commission, and its terms of reference about which Shri Buta Singh has said that the terms of reference

were framed by Shri V. P. Singh himself. One thing which was left, as Mrs. Bajpai has said, was added by the hon. Prime Minister. Should I read out the terms of reference? No, there is no need, our learned Members must have read them. Under the terms of reference the Commission has been asked to find out whether Fairfax was appointed; if so, who was responsible for it; the basis on which it was appointed; whether any enquiry had been made about its competence; if so, the number of reports given to the Government after its appointment, and the terms regarding payment of money. Then the last point was which is most important:

[English]

"Was the security of India prejudiced in any manner in making such arrangements."

[Translation]

Whatever I have quoted was not done by the Government of its own will, Shrimati Geeta Mukherjee, Shri Somnath Chatterjee, Shri Kumaramangalam and Shri Dinesh Goswami, all the Opposition Members had asked for such an enquiry (Interruptions) Everybody including we had demanded an enquiry.

SHRI VIDYA CHARAN SHUKLA (Mahasarakund): Rangarajan.

SHRI BHAGWAT JHA AZAD: Sorry, Rangarajan. I was taking the name of my late friend. The fact is that the other Members in the House may have been elected once, twice, or thrice but I have been here for seven terms. I had worked with his father too and am now working with his son as well. This is my problem. (Interruptions) I will get an opportunity to work with his grandson also. Therefore, there was a confusion about the name of Shri Kumaramangalam, and I beg your pardon for the same. I have quoted that the Government has not framed these terms of reference of its own accord.

[English]

"Shri Indrajit Gupta asked how security is involved."

[Translation]

Our Shri Indrajit Gupta made great fun of it. ..

[English]

Shri Indrajit Gupta Said, "what is the political serman?"

[Translation]

I have not said anything from my own side.... (Interruptions)... Please, do not speak any more. Achariaji. I have quoted what your leader Shri Somnath Chatterjee had said. Should I quote more? This is very serious. One point which Shri Somnath Chatterjee made was (Interruptions)... Shri Amal Dutta, you should keep quiet and listen to me otherwise I will not let you speak. I was saying that Shri Somnath Chatterjee Shrimati Geeta Mukherjee and Shri Dinesh Goswami had said that the appointment of this company was a threat to the security of his country.

S. BUTA SINGH: There should not be any interference with the security of the country.... (Interruptions) It is my duty to remind Shri Bhagwat Jha Azad that the CPI(M) Politbureau had also said the same.

SHRI BASUDEB ACHARIA (Bankura): And also something more.

SHRI BHAGWAT JHA AZAD: I will tell you as to what they had said. Please, keep quiet, let me have a talk with him. The Politbureau had also said as was affirmed by Shri Somnath Chatterjee in the House that an inquiry should be conducted about persons involved in FERA and other economic offences and I told you and I repeat it today also that in the last three years, Kirloskar... (Interruptions). You are not paying proper attention to what I am saying. Please, listen to this point which I am making. Under Rajiv's Government action was taken against Kirloskar, Bata, Tata and other companies for economic offences... (Interruptions) ... Action is still being taken in such cases:

[English]

SHRI S. JAIPAL REDDY: Let him quote one instance, a single example of Mr. V. P. Singh.

[Translation]

SHRI BHAGWAT JHA AZAD: I want to tell Shri S. Jaipal Reddy that the Minister of Finance should cite more instances of people against whom action was taken ... (Interruptions) ... I am neither Shri Bhure Lal, nor Shri Jaipal Reddy that I would go sniffing in the corridors to find out what is happening. It is not my job. The company people do not approach me to raise their issues in the Lok Sabha. This is Shri Jaipal Reddy's job to go in search of Government notifications in order to find out as to what has happened and where. He may summon companies. But the hon. Minister of Finance should take a note of it and State whether ... (Interruptions) ...

[English]

17:00 hrs.

MR. CHAIRMAN: Let there be no running commentary. Order please. Please sit down.

[Translation]

SHRI BHAGWAT JHA AZAD: Mr. Speaker, Sir, his name is Shri Choubey. He should have four qualities, viz. of listening, speaking and smiling but he has only one quality and that is of shouting ... (Interruptions) ...

The whole issue of today's debate rests on the point as to whether the Commission's reports based on the terms of reference given by the Government as I have just quoted or is it not based on that? You look into the report and find out as to what the Commission has stated in regard to every term of reference.

The most important point which was made by Shri Indrajit Gupta is, "What is the political sermon here?" I want to say that there is no political sermon here. The Commission's report is based on the terms of reference on the basis of which it was asked to find out the facts. It was a fact finding Commission. But about this Commission it has been said that it was less of a fact finding Commission and more for a political sermon. I want to say that it was only a fact finding Commission.

One of the questions before the Commission was as to who was responsible for engaging the Fairfax agency or at what level was this done? This has been stated in the report. This is neither a political document nor is there anything to harass anybody. The matter is straight that Fairfax was engaged but how it was done.

(Interruptions) ...

Shri Indrajit Gupta has stated that the Commission has called Shri V. P. Singh as an intransigent person in its report. This is wrong. I have also read the report. Prof. Madhu Dandavate, I want to know as to where in the report has this point been made?

[English]

PROF. MADHU DANDAVATE: Sir, Since he has asked the question, I will read out. It is in Page No. 9

[Translation]

SHRI BHAGWAT JHA AZAD: Let me read the report. The Commission has stated about Shri Vishwanath Pratap Singh, Shri Bhure Lal and others on Page 128 that ...

[English]

"Any way, the Commission is unable to probe into this matter and unearth the role played by Shri Gurumurthy and the purpose underlying his exercise in the absence of the relevant material information. And this has not become possible in view of the intransigent attitude of Shri Gurumurthy taking shelter under untenable technical plea."

[Translation]

Shri Gurumurthy has been blamed for intransigence. But a questionnaire was sent to Shri Vishwanath Pratap Singh, Shri Bhure Lal and Shri Vinod Pandey. Now the question arises as to what were the answers given in the questionnaire? Was it necessary to call Shri Vishwanath Pratap Singh? There was no chargesheet against him. He had committed a political blunder. He had not committed any economic or legal offences. He only committed a political mistake about which I will submit later.

Shri Vishwanath Pratap Singh stated in his reply that he had only directed orally. He has admitted it. Mr. chairman, Sir, the question arises, regardless of whether it is the Central Government or the State Government or even a municipality as to what is meant by an oral order? For example the hon. Minister is seated here. He issues an oral order to one of his officers sitting in the official gallery to prepare not about today's proceedings in the House. This does not mean that oral order should remain oral only.

[English]

"Allmost immediately or at the convenient time or as far as possible quickly that must be put on record".

[Translation]

That is an oral order. But the oral order issued by Shri V. P. Singh was wonderful. The hon. Minister of Finance gave an oral order to the Revenue Secretary Shri Vinod Pandey, who also did not record it. Perhaps the hon. Minister of Finance might have not found time as he was busy in discussions but how was it that Shri Vinod Pandey also did not have time and he also passed the order orally to Shri Bhure Lal who also did not find time to record it and further orally directed the Fairfax to start work. In this way the oral order went on. Is it possible for a Government to function in this way? Shri Indrajit Gupta also said the same but in a low voice. He said as to what would have happened in case some Member was transferred but he said it very gently without putting any emphasis on it. The rest of his speech was loud enough and due emphasis was placed on every point but he ought to have said this loudly as well that it was wrong and it should not have happened.

In the political dictionary also, the definition of the oral order has been provided and according to that if a Minister of Home Affairs gives an oral order to the Home Secretary in the airport or in the corridors after lunch, then it becomes imperative to put that into writing immediately or as early as possible. But in this case no such thing was done. The Finance Minister issued oral order to the Revenue Secretary and he in turn directed the

Director of Enforcement, who further directed the Fairfax agency in the United States to conduct the investigations. That is why the Commission said that it was wrong. And therefore, this reference was made to the Commission. Thus, the main point here is that, such adhocism prevailing in the Finance Ministry is regretful. In this context, one of our friends said rightly that the hon. Prime Minister is also accountable in this respect on the principle of collective responsibility. The meaning of collective responsibility is that the Hon. Prime Minister has to take action and he has done so, but it is a clear illustration of the fact that the words collective responsibility imply that the Prime Minister is responsible for the action of every Minister in the House. It does not mean that the Prime Minister has to be constantly vigilant about every action of every Minister and every secretary which in other words would mean to have a parallel Secretariat to verify as to in which form have the orders been issued whether in writing or orally and so on. Is this what you understand by Collective Responsibility? I want to say that the Hon. Prime Minister had given considerable autonomy which is evident from the fact that every Minister had full freedom of action on matters falling under his jurisdiction and it was on account of granting such a liberty that a blunder of this magnitude was committed and the whole work in the Finance Ministry was carried out in such an *ad hoc* fashion. Who was running the Finance Ministry? You have said that Shri Nusli Wadia and Shri Gurumurthy should have not been brought into it, but I would say that they had played a vital role in the whole affair. This leads to suspicions naturally. You say that we should not be suspicious of Shri Bhure Lal or Shri Vinod Pandey. It is not we who suspect them but it is the circumstances which makes us suspect them. In the terms of reference, the question regarding Mr. Hershman's antecedents came up. Shri Somnath Chatterjee said rightly and Shri Jaipal Reddy may be aware that even while employing domestic servants, we find out their antecedents. We try to find out as to from where has he come; what was his previous employment, why was he removed, which place

[Shri Bhagwat Jha Azad]

does he belong to which village does he belong, but Government of India did not think it necessary to verify the antecedents of the Fairfax agency which was engaged to look into the FERA violations amounting to crores of rupees by so many big companies. If viewed from the security angle, I want to submit that Fairfax is an American company. United States of America since 1954 has been making use of every opportunity to embarrass our country and I can furnish dozens of examples in this respect. I have been observing the attitude of the U.S. Government since 1954. They have been making use of every opportunity to embarrass us and I have given ten examples in this respect that day during the debate on Indo-U.S. relations. I am giving this example again today. It is unfortunate that though we want friendly relations with the United States, it makes use of every opportunity to threaten us by sending the Seventh Fleet or some other fleet. And what the Hon. Prime Minister has said about Mr. Bush is a statement of facts. Mr. Bush has stated that U.S.A. never makes any attempt to threaten us by sending the Seventh Fleet to destabilise us. The Hon. Prime Minister informed the nation about it. The Prime Minister never said that he believed it. You are emphasising on the point that he has accepted what Mr. Bush had stated. It is not so. Whatever the Hon. Prime Minister has stated is a statement of facts. The Prime Minister merely informed the country and the world about what Mr. Bush had told him. But look at them, an amendment was made. Therefore, I want to draw your attention towards the hiring of the Fairfax agency which is headed by Mr. Hershman. He is a C.I.A. agent who works quietly and was behind the investigations into the watergate... (Interruptions)... I know what you are saying. If you do not agree, then I take back my words. Mr. Mackey who was their legal advisor, has stated that the Fairfax agency has been exchanging information with the C.I.A. and the F.B.I. That is why, people were demanding from both sides of the House that the security aspect should also be looked into. I think had the Commission been appointed for this point only, we would have wel-

comed it. We must realise that it was nothing more than a drama on the part of America for releasing 4.02 billion dollars to Pakistan. Today we pass resolutions and appreciate Mr. Reagan. It should be investigated. I have been in the Parliament for a long time and know its strategies. It is never interested to have friendly relations with India because it wants not a friend but a client a slave.

[English]

SHRI S. JAIPAL REDDY: I agree with it.

[Translation]

SHRI BHAGWAT JHA AZAD: Jaipalji agrees and should agree with me that it was positively a security risk for us to engage the Fairfax Agency of a country like America. It must have taken advantage of it apart from extending us the information about FERA violations. So the commission has correctly stated in its report that security risk was there. As you must have seen, the Commission says :

[English]

The Commission is of the opinion that it is not safe to engage foreign private detective agency at all. The Commission has also formed opinion that engagement of Fairfax or Shri Hershman was unsafe as has been proved by subsequent events.

[Translation]

What were the subsequent events? I want to remind you that what Shri Hershman said on the subject. He started threatening us.

[English]

I do not care. In the opinion of the commission it is unsafe because the care demonstrated by Shri Hershman against the Government of India itself and the derogatory remarks made by him.

[Translation]

We all had opposed the derogatory remarks he had then made. Just think, we engaged Fairfax which insulted us later. We are saying that very thing which you people are saying as to why Fairfax was engaged with which those people of FBI and CIA were connected who threatened or

insulted us. We are all agreed to what the Commission has stated. The Commission wants to know from the Prime Minister and the Finance Minister as to how the entire work in the Finance Ministry was being done on an adhoc basis. It is a very serious matter but they will not admit it. It is not legal to launch any prosecutions in such circumstances. Who will prosecute them? It is only a political announcement, that the Finance Ministry indulged in adhocism. But who was looking after the work of the Finance Ministry then. It was being done by Shri Gurumurthy, an outsider and Shri Nusli Wadia of Bombay Dyeing fame. It is now being said that action should be taken against the Bombay Dyeing whose owner Nusli Wadia is an outsider. I agree with you. Shri Jaipal Reddy but I speak on the merit of the fact and not under any political motivation. It was Nusli Wadia who invited Hershman to India, stayed with him, paid his bill, introduced him to Gurumurthy and on the recommendation of Gurumurthy and Nusli Wadia Bhure Lal engaged Fairfax. You call it a detective story. Indrajitji, may God bless you with good sense. I consider it as a story of conspiracy.

[English]

PROF. MADHU DANDAVATE: We demanded his enquiry also.

[Translation]

SHRI BHAGWAT JHA AZAD: Right. I support you, but you must also support me asserting that this report is not a political one.... (Interruptions) There is no change in their attitude. (Interruptions) In the Report a reference has been made about the security and non-availability of the record. The Commission says:

[English]

"No record existed about the alleged oral clearance or the alleged engagement of a foreign detective agency during the tenure of Shri V. P. Singh and all Post-facto record came into existence much later".

[Translation]

It is very unfortunate that the Finance Minister came to know about the engagement of Fairfax after his transfer from the Finance Ministry to the Defence Ministry. What an able Revenue Secretary was Shri Vinod Pandey! He received reports on March 10 and he came to know about this engagement from Shri Bhure Lal's report. What a good example of his ability that he did not come to know of it earlier. Only the Finance Minister had given a general clearance. Does this general clearance mean that such and such agency of such and such country should be engaged? The Commission has said regarding the detective story.

[English]

"What is significant is that the services of a foreign private detective agency of the choice of Shri Gurumurthy who was an outsider has been selected without any enquiry regarding the credential, reliability, competence or loyalty being made from any source".

[Translation]

Is it not a serious matter? When we engage a typist or a clerk or a domestic servant, we make various enquiries about them. But in such an important case. We did not make any enquiry except that what was done by Nusli Wadia and Gurumurthy, we accepted it. I mean, the entire work in the Finance Ministry was being done on their advice. Regarding the competence of Fairfax, I want to say:

[English]

"The Commission has formed the opinion that Fairfax and Shri Hershman were not competent to carry out the task that was entrusted to them and it was not wise and prudent to have engaged Fairfax and Shri Hershman".

SHRI INDRAJIT GUPTA: It is their opinion.

SHRI BHAGWAT JHA AZAD: We are considering the opinion of the Commission, not your opinion.

SHRI INDRAJIT GUPTA: It should be on the basis of some facts.

SHRI BHAGWAT JHA AZAD: When you were not here, I narrated all the facts.

[Translation]

Here one more thing has rightly been pointed out that once the company was engaged and it was given in writing that to whomsoever it may concern, two persons said that they would not engage Shri Hershman. Instead of giving any information to the Government, Shri Hershman acted as a post office and simply passed on the papers of the companies. Even to the Commission he told that he would send a reply only after having received any communication written on the letter-pad of the Government of India.

Now the question is that when our learned Officer gave in writing to the company to whomsoever it may concern, it naturally took sometime to undo that. On this basis one can say that it has already taken three months when it should have taken one or two months. I want to say that one has to think before removing a foreign company that has been engaged once. So I don't consider it as a vital point on which you people are emphasising. What is the vitality in it? We are also not against a right thing. In view of all these facts I think the Commission has given a right report in which all those points have been replied which have been referred to the Commission. But it is a matter of great regret that it is being challenged saying that the judges owe explanation to the people. Explanation for what? In regard to section 8B and 8C, I would like to tell you that a questionnaire had been sent to Shri V. P. Singh and two other Officers and they were asked to submit their replies. In reply to the questionnaire, it has been clearly stated that an oral permission had been given which was recorded after one month. This was one of the terms of reference. Owing to this the Commission did not feel any necessity to call Shri V. P. Singh. On the other hand if Shri V. P. Singh had wanted, and it was his right under the mandatory provision, he would have expressed his desire to present himself before the Commission. And your charge would have been true

if the Commission had considered improper to call him. So do not favour only one side. As the Commission has not levelled any legal criminal charge and simply talked about the political responsibility saying that the Fairfax agency should not have been appointed orally.

So, Mr. Chairman, I want to make it clear that the Commission has done a very good job and gave its report after highlighting all the issues. I would request the Government to enquire, as has been suggested by the Commission also whether the ideal of delegation of powers by one after the other three learned Officers set out before us was proper? How it was justified when one delegated the power to the other and the second to the third and thereafter the latter engaged accompany to make investigations. Besides, you should set up a cell of Revenue Intelligence so that economic offenders are dealt with strictly. Mr. Finance Minister, we should have no more chance to say that Finance Ministry is working on an *ad hoc* basis, we no more want any Revenue Secretary or Director who works in *ad hoc* fashion. What a learned man Gurumurthy was! He acted as a juggler and compelled us to dance like monkeys.

17.25 hrs.

[MR. DEPUTY SPEAKER in the Chair].

Therefore, I want that you may enquire into the points made by me. When these people say that the Judges owe an explanation to the people, henceforward no Judge will be prepared to hold such an enquiry, if demanded by the opposition. In future whenever there will be a demand of a Judicial enquiry in this House, no Judge will be prepared for that. That greatness of our colleagues in the opposition cannot be described in words. When the Government proposes to hold a Judicial enquiry they insist on referring to a Committee of the House. But when the Government wants to refer the case to a Committee of the House, they would insist on a judicial enquiry... (Interruptions)... It was they who had asked for a Judicial Commission. I am not saying of my own. That is why I say that their greatness cannot be described in words.

I would like to submit that it is they who insisted on referring the case to the House Committee when the Government proposed to set up a Judicial Commission and when the Government referred to the Committee of the House, they non-cooperated. They will accept only that Judicial Commission's Report which is written at their instance. But no Judge will write a report in this way. It can neither be at the instance of the Government. Now no Judge will come forward to hold a Judicial enquiry consequent upon the explanation being called for by a former Minister at a meeting in Nagpur. I earnestly request them not to create such a situation in the country in which we are unable to constitute a judicial Commission in future. Therefore, I want that a situation should not be so created which will have serious repercussions in future. The opposition parties should take this thing into account.

We must understand that the Thakkar and Natrajan Commission has given a report after referring to each and every point clearly and opined that neither the Government of India nor the Prime Minister nor anybody in the ruling party was directly or indirectly involved in this case. Only one Ministry was involved in it for its adhocism. It was an attempt on the part of some companies in this country to indulge in a conspiracy to compel one person to take a wrong step.

With these words I am of the view that all of us should congratulate the Commission for submitting so nice a report.

[English]

PROF. MADHU DANDAVATE (Rajapur): Mr. Deputy Speaker, Sir, you may recall that on 31st of March 1987, I had initiated a discussion on Fairfax episode. After that, also we had one more discussion. As a result of various issues that were raised in these two discussions, under the Commissions of Inquiry Act, a Commission was appointed. The terms of reference were set. Of course, we had suggested a House Committee. But even then under the Commissions of Inquiry Act, a Commission was

appointed. We did feel even at that time that the terms of reference were inadequate and unsatisfactory.

As far as this report of the Commission is concerned, it makes a serious indictment of concerned persons in violation of all norms of natural justice. It is an accepted fact that the notices to the concerned were not given under section 8-B and 8-C of the Commission of Inquiry Act which are mandatory provision. It is not left to the sweetwill of the Members of Commission either to accept the provisions or reject the provisions. These are mandatory provisions and the reason is extremely simple. When the Parliament framed the law and amended it, it was very clear that if at all there are certain persons who are "likely to be prejudicially affected by the inquiry", a reasonable opportunity should be given to the concerned persons to appear before the Commission with a regular counsel and check the evidence. Section 8(c) gives the advantage to the concerned people to have cross-examination even if the Commission is actually basing its version and evidence on certain statements or statements attributed even to the Prime Minister. In that case, even he cross-examination of the Prime Minister is possible. But these two sections were not at all applied and the notices were not given under Section 8(b) and 8(c) which are mandatory. The question arises as to what are the reasons given by the Members of the Commission for violating the mandatory provisions 8(b) and (c). Hon. Finance Minister was asking Mr. Indrajit Gupta whether those words 'intransigent' and other things were mentioned anywhere in the Report. Here is the Commission's Report and I would quote from Page No. 9. It is not that these particular allegations are made in relation only to X and Y; it is in relation to all those who are likely to be prejudicially affected. Therefore in this very Report, in Page 9 of the introductory chapter, under the heading 'Problems faced by the Commission, it is given:

In regard to several matters, the Commission could not record oral evi-

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dence and/or undertake proceedings under Section 8B/8C of the Act on account of two factors, viz.:

1. failure of the concerned person to respond to the requisition seeking information; and

2. the intransigent stand adopted by the concerned persons from whom the information was sought.

These wordings are already in the Commission's report in the introductory chapter. Now, they totally contradict the facts, as far as Mr. Bhure Lal, Mr. Vinod Pande and Mr. V. P. Singh are concerned. This very Report contains the answers which were given in writing by Mr Bhure Lal, Mr. Vinod Pande and also by Mr. V.P. Singh. Therefore, I do contend that deliberately to avoid the cross-examination of certain important dignitaries which might have caused embarrassment to them and also the Commission, Section 8(b) and Section 8(c) were totally ignored. There was an insistence by the Press and other sections of public opinion that the inquiry should be an open inquiry so that people will come to know the facts. Even if some people are guilty of some crimes and if some are allegedly responsible for the security risks created in the country, the people at large will know that there is cross-examination, and the evidence can be laid, the Legal Counsel can be employed and such facilities will be available to all concerned. The question is why is it that Sections 8(b) and 8(c) were ignored? My contention is this and many Members may not like it. If you go through the Report carefully, you can find certain aspects of the policies pursued by the Prime Minister and certain statements attributed by Mr. V.P. Singh to the Prime Minister when he met at his office on the 11th March. To find out the correctness of those statements and the information given by V.P. Singh in relation to the Prime Minister Commission would have been required to call the Prime Minister for cross-examination. That probably, would have caused embarrassment to the Prime Minister and that is the reason why, I feel, that Sections 8(b) and 8(c) were not at

Fairfax Group

all invoked. If you go through the entire Report page by page, you can find that the Report has concentrated on non-substantive and peripheral issues, totally neglecting the substantive issues for instance the question regarding the economic offenders in the country. The only question that they have discussed in the report is whether the orders and instructions were given by the Finance Minister orally or in writing.

I am reminded of an interesting story of a Professor of English. The daughter of a professor of English ran away with the chauffeur of their car and wrote a small note in English to the parents that she loved the chauffeur of their motor car and she was running away with him. When the members of the family saw that note, all were crying and shouting. In the evening, the professor of English came home and when he asked: "Why are you weeping and shouting?", all family members said: "Look at the note that your daughter has written." The professor of English went through the note and he also started shouting and crying. When his colleagues asked, why he was crying and shouting, he said: "What a shame! I am a professor of English and my daughter has written a note in English saying that I am running away with the chauffeur; she has misspelt the word running, she has put single 'n' instead of double 'n'. That is why I am so much worried." He was not worried that his daughter had eloped with the chauffeur, he was only worried that in writing the note and communicating the message, the daughter had committed a spelling mistake in that note which was addressed to her father, who was a professor of English. Exactly, that is what has happened here.

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): All professors are like that.

PROF. MADHU DANDAVATE: Not all professors; let me make it clear. Firstly, I am not a professor of English; I have no motorcar and, therefore, I have no chauffeur and I have no daughter.

THE MINISTER OF ENERGY (SHRI VASANT SATHE): He is a professor of

physics. He has a son and the likelihood is that his son will run away with somebody else's daughter.

PROF. MADHU DANDAVATE:
There also, the position is quite safe.
My son is already married.

My contention is that they have not taken up the substantive issues. Those of us, who raised the Fairfax issue in the House—at least I and Indrajit Gupta—made it clear that we as persons committed to the concept of socialism are not at all worried about the internal civil war between the various capitalist groups at all.

S. BUTA SINGH: And national security.

PROF. MADHU DANDAVATE: Of course, that is not your concern alone, we have been fighting for that and we share that.

As far as the national security is concerned, that is the common concern of both the sides of this House. Let there be no doubt about it. But as far as concept of socialism is concerned, we are not interested in a civil war among the capitalists. That is my attitude and the attitude of Indrajit Gupta. When we raised the question we do not want to defend one particular industrial group at the cost of others. We are concerned about the fact that throughout the report, nothing has been said that will help the Government and the Parliament in ensuring that economic offenders are brought to book; no matter to which group they belong, no matter who these industrialists are, no matter who these businessmen are, or whether they are film artists. Whosoever they may be, they must be brought to book.

S. BUTA SINGH: And whether they are press barons.

PROF MADHU DANDAVATE: I agree. See how much is the area of agreement. If I am Buta Singh agree, who can disagree?

Shri V.P. Singh had given clearance about the foreign agency; he gave oral

instructions. Written nothing by Shri V. P. Singh was made in the file at a later stage on 11th March, 1987. The Commission is very much disturbed by the fact that Shri V.P. Singh earlier gave an oral clearance and on 11th March, 1987 he tried to enter it in the notings in the file. Sir, almost an impression is created as if it was the predated entry. He did not do that. In writing he said, "I have already given a clear evidence and clearance orally. But in order that my officer should not come into trouble after this controversy started, I mentioned in writing that I had already given the oral clearance. This particular fact which he stated was mentioned to the Prime Minister. Shri V. P. Singh met the Prime Minister at his office on 11th March at night and told him—all this in the written replies he has given—that the file was already sent to the Prime Minister and grounds of clearance to foreign agency were already communicated to him. And the Prime Minister did not find it wrong. This is what Shri V.P. Singh has said, not orally but in a written reply that is sent to the questionnaire by the Commission. Not only that, Shri Brahm Dutt spoke in this very House and I will quote him from the record, both in Hindi as well as in English, about his arrangement, that is the payment to be made after the information come. Shri Brahm Dutt said:

“Main ne jo arrangement kiya tha us se satisfied hum. Bhootpoorva Vitta Mantri ji ne jis prakar ki ijazat dee hai, waha bilkul sahi thi”..

And in the English version of the Parliament proceedings, it is stated:

"I am satisfied with the arrangement that exists. The permission given by the ex-Finance Minister was absolutely right."

If notice under 8(b) and 8(c) were given, this particular statement which I am making in the House on the basis of written answer that is given by Shri V.P. Singh to the Commission, could have been tested because ultimately when Shri V. P. Singh says that:

"On the 11th night. I had already given this information orally to the

[Prof. Madhu Dandavate]

Prime Minister and he said there is notinh wrong..."

The best way of settling the account would have been that Shri V.P. Singh could have been called for cross-examination; Prime Minister too could have been called for cross-examination and in the cross-examination the members of the Commission would have been able to find out what is the truth. But that was not done because section 8(b) and 8(c) of the Commission of Inquiry Act were not at all applied. The question arises why there was oral evidence? Our friend Shri Bhagwat Jha Azad has raised this question and today again in a written answer which is already included in Commission's report Shri V.P. Singh has said:

"Many times Prime Minister himself has given verbal orders and approvals on which Finance Minister acted on very sensitive matters"

And he has claimed and publically stated yesterday that:

"If I am called for cross-examination and if the Prime Minister is also called, I am prepared to state a number of instances in which the Prime Minister has orally given instructions and approval regarding the clearance of orders on the basis of oral message".

Decision regarding the agency was an administrative matter according to Shri V.P. Singh and it is not a policy matter. I will quote here another Defence Minister for State. When the debate on submarine deal was going on, you may recall that Shri Arun Singh was replying to the debate because already the Defence Minister was removed from his post and Shri Arun Singh and Shri K.C. Pant also hold the same view that when a departmental enquiry was appointed in the case of submarine deal, they were not at all against the enquiry being instituted. They only said as to why did he reveal that information to the Press. So, again it is a case like the professor of English finding fault with the daughter only about her spelling. He himself vindicated that there

are a number of occasions on which enquiry was appointed. When I was heading the Railway Ministry, there were a number of sensitive matters when sometimes we had to enter into some sort of contracts with foreign countries and on the basis of my own personal experience I may tell you this. When a World Bank loan had to be negotiated, some officers tried to pressurise that some high power locomotives should be imported in order to get the loan. Without contacting the Prime Minister or the Cabinet on such sensitive issues, I quiteely gave necessary oral instructions to the Team that had gone to negotiate the loan with the World Bank. I did so because I knew it very well that if I tried to put something in writing, the entire Railway Board office would know about these things and those officers who wanted to manipulate things would try to generate pressure. I may tell you that things had worked exactly on the lines I wanted. We did not succumb to the pressure of some officers for the import of high power locomotives. And we were able to get the loan from the World Bank without any conditions.

[Translation]

THE MINISTER OF STATE OF THE MINISTRY OF WELFARE (DR. RAJENDRA KUMARI BAJPAI): It should not have been entrusted to C.I.A. without taking others into confidence.

[English]

PROF. MADHU DANDAVATE: I am coming to that point Madam. Have a little patience. I will cover every point.

Then there is the question of security risk. The Commission has alleged that there is a security risk in engaging the Fairfax. I must say in all humility that there are certain political and quasi-political questions like security risk and they should never be entrusted to a judicial commission of this type. These are the problems about which the decision must be taken by the Cabinet. These are the political and semi-political issues and they should never be left to such a Commission.

The file remained with the Prime Minister from 11th of March 1987 and he terminated the Fairfax agency in May 1987, almost at the end of May 1987. Till then, the Prime Minister did not feel that there was a security risk. Is security risk dependent upon the month? On the 11th of March, he had already been told that such and such an agency had already been appointed. Till May that agency continued and at the end of May, the arrangement with the Fairfax was terminated. Do you take it for granted that the Prime Minister felt that till the end of May there was no security risk at all and only after considerable thinking, he came to the conclusion at a later stage that there was a security risk? Therefore, this argument too is fallacious.

What are the prerequisites suggested by the Commission for the appointment of an inquiry? The contention of the Commission was that the credentials and experience of Fairfax were not checked. Shri Brahma Dutt himself confirmed the status of the Fairfax Inquiry and he said that its status was that of an 'informer'. I will quote what he said on 31 March 1987 in the debate which I initiated. This is the English official translation of what he said on 31 March 1987:

"Shri Somnath Chatterjee asked as to what are the credentials of Fairfax, what are its traditions, what is its experience. Sir, these things are ascertained only when we retain someone as a servant—as a *naukar*—in our house. We did not retain them even as a *naukar*, as a servant. We do not ask these things of an informer. You give the information, and then you will get the money. That is why nothing was asked..."

Sir, this is his own statement made in this very House, I had taken it from the proceedings of the House. In his statement, Shri Brahma Dutt said that they need not go into these details at all because they were just informers.

Sir, even in espionage cases, sometimes this sort of things take place. The man who gives the information might not be

a man of high character. Ethically, he might not be a very competent man. But if he has some information and if the Government feels that it is worthwhile to take advantage of that information and ultimately dupe him, if necessary, then the Government makes use of that information from the informer. That exactly was the contention of Shri Brahma Dutt. Then a question arises as to whether two rivals can be used for getting such information or whether it would be considered unethical. Here let me say that on a number of occasions, this recourse is taken and you may ask the officials of the Finance Ministry and the Finance Minister also about this. When the cases of smuggling are to be detected, sometimes this type of action is taken. At least I know some cases in which two smugglers who are rivals to each other were taken advantage of by the Government. And they tried to find out the information from one smuggler about another smuggler, took advantage of that and at a later stage, they also took action against the smuggler who had actually given the information. For that they contacted the third smuggler. So, sometimes it happens that way. It may appear unethical. But in the intelligence work and network, such strategies have to be used. Absurd norms have been suggested which emerged from the Commission's Report about engaging Fairfax Agency. If you carefully go through the entire Report and try to draw an inference after looking to the observations that they have made about the functioning of this agency and the manner in which honest officers have functioned, it almost appears to me that the Commission has prepared almost an unofficial manual as to how you can find out all these offences. The first is, what should be done by the Finance Ministry officials—collective decision by the Cabinet or with the approval of the Prime Minister? The second is, reduce it to writing all down the line. Does not matter even if a number of people come to know about it. The informer's character must be tested. You can tell him that if you are only a man with a fine character and you yourself are not indulging in anti-social activities, then only we will take news from you as an informer. Busi-

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ness rivalry must be checked. You check whether there is a business rivalry. Otherwise don't touch either of them. Written agreement must be there with the informer. I do not know, whether with this condition anybody will act as an informer. Refuse to meet him outside the office so that everybody come to know about it. When informer comes to the office his name must be recorded in the register at the entrance of the office so that everything remains on record. So, Bhagwat Jha Jhazad will not be able to complain whether a reliable man has come or not. Minutes of the talks of the informer must be maintained. Information must be diarised in Department available to all concerned. They must be kept with general documents of the Department not separately somewhere in a hidden way. It must be with all other documents. Officers must be deputed to pursue the material abroad. Diplomatic channel must be used to track the economic offenders. Now with such restrictions emerging from the Report—you carefully go through it, it may appear that I am drawing absurd conclusions—when we take this particular Report very seriously, neither the economic offenders nor those responsible for espionage can ever be detected. Detection and intelligence work has its own inner logic. You cannot destroy the inner logic. You cannot put it in a straightjacket and then expect the results. If you want only moral and ethical results, then decide that we will not take advantage of anyone. Therefore, even in an international field, there are something like spies and counter-spies. Having a system of counter-spies might be unethical from moral point of view. But from the point of view of producing the results for the safety and defence of the country, even the system of counter-spies is an accepted practice all over the world.

What about Prime Minister's security? We want the security of the Prime Minister to be preserved and maintained. After all what happened to Indiraji? But what do we find? Are we taking a doctrinaire attitude there? Was not private foreign agency used to train the personnel of the

Prime Minister's security? It is ultimately the Home Ministry's assessment—I am not talking about a particular individual. If our Government and the Home Ministry feels that the particular training is necessary, I will leave it to their judgement. Now look out the unfairness of Commission's functioning. The use of CBI was made as an investigating agency. Do you realise that in this particular case the CBI is a committed agency? Government's Law Officer was an Advisor to the Commission. Government itself is in the dock. Allegations are made against them, and the Government's law officer says: 'I will assist and advise the Commission.'

Evidence based on conjectures: I pointed out to you what are the conjectures. Strange norms have been suggested to check the credentials of informers.

Now I come to Hershman. My friend Indrajit Gupta did not want to refer to it; but I would like to refer to it. So much is there in the entire report about the hospitality offered to Mr. Hershman at the Oberoi Hotel in Delhi at the hands of Nusli Wadia who is, again, a top-nautch businessman in one of the industrial groups which is hostile to the Reliance group. I know that. But then the story is put up that it is Nusli Wadia who was responsible for the hospitality of Hershman in the Oberoi Hotel.

Sir, you know according to the norms accepted how much will be paid as a reward to any informer. It will depend on the amount about which he has given the information. I am told by the Finance Ministry people that the maximum reward that is given to the informer is about 20 per cent. It can be less than that, but the maximum is 20 per cent. In this particular case, economic offences of the order of Rs. 100 crores were involved. So, if at all he were to give any good information, he would have received at the most 20 per cent. But what did he accept according to the report? Only hospitality at the Oberoi Hotel. That means about Rs. 8,000 to Rs. 10,000 i.e. nearabout \$ 1,000. So, a man like Mr. Hershman who is trying to supply the information about various fraudulent deals in violation of FERA involving Rs. 100 crores, when he is likely

to get a 20 per cent commission or 20 per cent reward, will he worry about Rs. 10,000?

Now further facts: I have a documentary evidence here. When Herskman of the Fairfax group entered the Oberoi Hotel, he stayed there from 15th November to 18th November. I have a copy of the registration card of the Oberoi Hotel here, signed by Hershman. He stayed there from 15th November to 18th November. The signature of the person occupying the room was that of Hershman. The computerized information fed was: 'Hershman of Fairfax is occupying the room'. So, it was in the name of Hershman of the Fairfax. Everything was mentioned.

You will be surprised to know this, Sir, He was there from 15th to 18th November; and then he was asked a question: "Oberois were asked to give the information that how is it that on your register, the name was later on changed from Hershman to Nusli Wadia? And then he said: 'On one day, a telephone call came to us saying that there is a room which is mentioned in the name of Hershman. Kindly change it from Hershman to Nusli Wadia.' Then that new information was fed to the computer; and the new information was: in place of Hershman, Nusli Wadia."

Who must have played the trick? I have a hunch. I want you to investigate that. Not you personally, Sir; for God's sake, don't go on any Commission. (*Interruptions*) I am saying that the Government should investigate that. What is my hunch? From 15th to 18th November, Hershman stayed under his own name, that is, under the name of Fairfax; and then a telephone call comes. Who must have manipulated the telephone? Here, I have a hunch. When Gurumurthy's case was pending in the court, and when he made the bail application, two forged letters dated 20th November were actually produced. On 20th November was the first letter; and in that, all sorts of information were given. In the second one, also, it was said that that man at the top was asking Gurumurthy: 'If you have any information about Ajitabh Bachchan and others, kindly give it.'

These two forged letters were there. Actually, the Government and the CBI said: 'Don't give bail to Mr. Gurumurthy, because he is responsible for that correspondence, and there it was claimed that these were forged letters.'

Nothing has been said about these forged letters. They have no investigation to make as to how these letters came. I have a hunch that the very same individuals and agencies or Houses which were responsible for forging the letters which were produced in the court of law, the very same agency must be responsible for telephoning the Oberoi Hotel and telling them to change the name from Hershman to Nusli Wadia. I have not the least doubt that there is some manipulation involved here. I have got a copy of the register card which if you permit me I will lay it on the Table of the House.

18.00 hrs.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Is he willing to maintain, willing to reflect and willing to maintain that two letters allegedly forged were produced before the Magistrate? Is he willing to maintain that or would he rather reflect upon the statement and quality and say that he has been informed about it, but he cannot vouchsafe for that statement? If he is willing to maintain it, then I want an opportunity to challenge upon that? (*Interruptions*)

PROF. MADHU DANDAVATE: Yes. (*Interruptions*)

SHRI P. CHIDAMBARAM: He has made a statement that two letters allegedly forged were produced before the court. Is Mr. Dandavate willing to maintain that statement and vouchsafe for that?

PROF. MADHU DANDAVATE: I will clarify. (*Interruptions*) When the lawyer on behalf of Mr. Gurumurthy argued he claimed—not that the court did accept that... (*Interruptions*)

SHRI P. CHIDAMBARAM: You just now said it.

PROF. MADHU DANDAVATE: I am saying that was the argument that the letters were forged; it has appeared in papers. (*Interruptions*)

SHRI P. CHIDAMBARAM: Would my learned friend also then say what was the order passed by the Magistrate? What was the affidavit filed by Mr. Ram Jethmalani? (*Interruptions*)

SHRI S. JAIPAL REDDY: Why don't you tell? (*Interruptions*)

SHRI P. CHIDAMBARAM: First let him say that. (*Interruptions*)

PROF. MADHU DANDAVATE: I will say; don't worry. Why do you put me in the dark when you yourself are in the dock? (*Interruptions*)

SHRI P. CHIDAMBARAM: I only want you to make a correct statement. If you are given wrong information, please don't repeat it. (*Interruptions*)

PROF. MADHU DANDAVATE: I am making a correct statement. (*Interruptions*)

SHRI S. JAIPAL REDDY: What is the correct position? (*Interruptions*)

PROF. MADHU DANDAVATE: The hon. Home Minister must be equipped with all the details. I am relying on the details, verbatim report that had appeared in the press; even a photostat copy of that letter had appeared in the press; and it was mentioned that on the basis of these letters, to damage the prestiges they are told that the bail is being refused... (*Interruptions*) I do not want to go into this legal technicality as to why the Magistrate did it; whether he had admitted it, whether on the basis of that letter his judgment had been given. (*Interruptions*) Anyway the bail was given.

SHRI P. CHIDAMBARAM: I am grateful that Prof. Madhu Dandavate has qualified his earlier statement

and has not repeated that any agency of the Government of India produced any letter allegedly forged before any court.

PROF. MADHU DANDAVATE: I will again repeat. An allegation has been publicly made that CBI's hand must be there in forging the letter; that is what the lawyer had stated. Now whether the Magistrate has said and whether the bail which was given on the basis of... (*Interruptions*)

SHRI P. CHIDAMBARAM: Is he making an allegation now that CBI forged that letter? If he is making an allegation let him make it. I welcome it.

PROF. MADHU DANDAVATE: I have been relying on the reports appeared in the press. It is for the government to clarify it. (*Interruptions*)

SHRI P. CHIDAMBARAM: Let him make the allegations. We will reply. (*Interruptions*)

PROF. MADHU DANDAVATE: About hospitality, I have already said—you check up my words—that I have an hunch that there is some agency or an individual who must be forging those letters; probably some agency which might be belonging to business houses which might be belonging to rival house; I do not dispute that. I said that I had an hunch that the same people must have tampered with the telephone. But, anyway, it is a fact; it is on record that Oberoi accepted that originally in the name of Hershman a room was booked and at a later stage the name was changed on the computer. That is a fact. It is left to the government to go and make an enquiry into the matter. Here I have got with me a Registration Card which I have quoted. Tomorrow, if I am permitted by the Speaker, I will be prepared to lay a specimen of this card on the Table of the House.

SHRI VASANT SATHE: Why are you making a fiction here?

PROF. MADHU DANDAVATE: This is not a fiction.

SHRI S. JAIPAL REDDY: What is the truth? (*Interruptions*)

PROF. MADHU DANDAVATE: This is a fact. (*Interruptions*) This shows that Hershman's name was entered, it had come on the computer and they themselves admit that later on telephone came and as a result of that another name has come. I want you to enquire into the matter and give the result about it.

SHRI VASANT SATHE: We are talking of hunches.

PROF. MADHU DANDAVATE: On the basis of documents, Mr. Sathe.

SHRI VASANT SATHE: We are talking of those things that we are told, about which you had hunches.

PROF. MADHU DANDAVATE: There has been a public debate on this. Let them come forward with fact. There are documents.

SHRI VASANT SATHE: Hunches you are not able to justify or substantiate. Let us enjoy the hunch.

PROF. MADHU DANDAVATE: So much talk is going on about foreign agencies being appointed for investigation of crime in our country as a threat to the security of the country. Once more I want to go on record about four instances in which foreign agencies were appointed or hired.

In 1975—I want to repeat—when Maharani Gayatri Devi went to the United States of America and lost her jewellery, Mrs. Gandhi was the Prime Minister; an American agency was asked to detect them and efforts were also made to assess them.

Secondly Charles Shobraj, the well-known smuggler when he escaped from Tihar jail and at that time also,.....

SHRI BHAGWAT JHA AZAD: He is repeating.

PROF. MADHU DANDAVATE: I have to mention, just as you have mentioned certain things, again.

When Charles Shobhraj escaped from the Tihar Jail, the matter was referred to the Interpol to find out through investigation as to who were his colleagues outside India.

Then, again at Pune, when General Vaidya was murdered by terrorists, to find out who were all the terrorists connected with it an American agency was used and now another glaring instance and the fourth one, when the Bofors issue came up. On the basis of the correspondence that was laid on the Table of this House, it is very clear, that the Government of India requested the Swedish Government to make an inquiry into the matter and see what exactly is the matter. When I asked the question, when we were demanding for a House Committee on Bofors, why was it not appointed? Why is it that at a later stage it was appointed? We have been told by a spokesman of the Government that when the National Audit Bureau Report from Sweden came, some *prima facie* evidence about the Bofors deal was indicted, and therefore at the belated stage Government accepted the proposal to have the House Committee, though with no adequate powers to investigate as we have demanded.

And there is so much talk of instability, threat to stability and allegations that object of digging out corruption scandals was to contribute to instability in the country, May I again repeat my past argument? In Nixon's watergate episode and Lockheed episode in Japan, in one case the President of the U.S.A. was involved and in the second case the Prime Minister of Japan was involved, the investigation of corruption did not lead to insecurity and threat to the stability of the countries concerned.

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Sir, as far as the rewards given to the informers I want to point out—on the basis of information available from Finance Ministry that Dubai and Hongkong informers were paid Rs. 3,18,000 in 1982, 1983 and 1984. An informer from Dubai was given on 23rd June, 1982, Rs. 25,000. An informer from Hongkong was given on 12th October, 1983 Rs. 5,000 an informer in Dubai on 30th December 1983 was given Rs. 18,000 and again from Dubai, another informer was paid in 1984 in February and April, Rs. 10,000 and Rs. 2,60,000.

This is the method that this Government has been following as far as informers are concerned and when they paid money to those informers from Dubai and Hongkong, they did not worry whether they were men of character. The only consideration of the Government was whether some information was available from these informers. And therefore unfortunately as a result of this report of Justice Thakar and Natarajan what has happened? Whereas the loyal and honest officers have been indicted the economic offenders are going scot-free.

Sir, my conclusion is that the Thakkar Natarajan Commission Report in view of the disrepute brought by it to members of judiciary, mutilation caused in the laws of the land, indignation created among law respecting citizens and because of the free licence offered to the economic offenders should be thrown to the dust-bin of history.

MR. DEPUTY-SPEAKER: Mr. Tewary.

PROF N. G. RANGA (Guntur): Sir, how long are we going to sit tonight? (Interruptions)

SHRI S. JAIPAL REDDY: Mr. Chidambaram, you are saying something.. (Interruptions)

SHRI P. CHIDAMBARAM: You will know when I speak. (Interruptions) I am not giving a command performance here. (Interruptions)

MR. DEPUTY-SPEAKER: I asked Mr. Tewary to carry on. Mr. Jaipal Reddy nothing. Let Mr. Tewary continue. (Interruptions)

SHRI P. CHIDAMBARAM: I will say the information when I speak. Amal Dattaji, you did not hear me. I said I will give the information when I speak... (Interruptions).. Don't distort my words. I said, I will give information when I speak. Sir, Amal Datta is distorting my words. I said, I will give the information when I speak. I am not obliged to stand up and answer Mr. Jaipal Reddy's question. (Interruptions)

PROF. MADHU DANDAVATE: He can give it leisurely. I have no objection. (Interruptions)

SHRI P. CHIDAMBARAM: I said, I will speak.

MR. DEPUTY-SPEAKER: Mr. Tewary.

PROF. K. K. TEWARY (Buxar): Mr. Deputy-Speaker Sir, I am impressed by Prof. Dandavate, who has been so quick to learn his lessons from Mr. V. P. Singh about the Commission, two Supreme Court judges who constituted the Commission, and other issues raised by the hon. Members.

Sir, I cannot believe that Mr. Indrajit Gupta and Prof. Dandavate, both perhaps the senior most Members of this House, could be so naive or uninformed or unmindful of the serious dimension which have come out of the Commission's Report. This report has been described by no less than a person than Mr. Namboodari-pad of CPM party as a revelation. So, I would like to dwell more upon the revelation of the Commission which has come to us in the form

of their concern, on the security of the nation.

Sir, the way the whole exercise has been handled that smacks of a deep definite conspiracy, use of Government machinery for ulterior political considerations and I for one, would not support the thesis that there is nothing to this Commission's report and we should debate the mere technicalities or some irrelevant redundant questions which Prof. Dandavate wanted to import in the debate. Sir, ever since this Fairfax question surfaced in the House, in the Indian Parliament and in the Press, we have been really watching the concern of this House and the reactions of some Members, some political parties to the whole exercise very carefully.

I would invite the attention of the hon. Members of the House to certain publications about Fairfax and the tremendous job they were reportedly doing, about the so-called high-ups in Government of India involved in under hand dealings and corruption cases. These reports started appearing a little before this Fairfax agency was formally engaged in the first week of January, 1986 by Mr. Bhure Lal. If you look at the entire picture—Mr. Dandavate will acknowledge this—Mr. V. P. Singh was known and had earned quite a reputation for himself as a person who was stickler for norms, rules and regulations. I am not prepared to give a damn to this thesis or theory that Mr. V. P. Singh merely passed an oral order and after that he had bouts of amnesia and he forgot all about it. The whole exercise is so dubious. Persons of very dubious pedigree and ancestry have been associated with the exercise of governmental authority. Governmental authority was delegated to persons like Mr. Gurumurthy, that shadowy hatchet man of Ram Nath Goenka, the ancient wheeler dealer in Indian politics and press baron, was throughout in the picture. Then Nusli Wadia, who is a foreign national and has substantial business interest in such

exercises, was also associated. Along with these persons comes Hershman of fairfax agency, about whom CPM Politbureau has opined like this:

“Engaging Fairfax was an anti-national act and we oppose its appointment..... It is notorious for its connections with the CIA and the FBL.”

This is the view expressed by the Politbureau of the CPM. But what is now hurting and what is going home is the unmasking of a very deep laid conspiracy. Hershman as the person incharge of the orchestrated attempt on the credibility of the Government of India and our Party's Government, was made the chief spokesman. I had pointed out to the hon. Members in this very House almost ad nauseam that this country was being taken for a ride by a person, who had been engaged by a group whose intentions were not very pious, were not very clear.

Hershman makes a statement from America not about a particular company, company (a) or company (b). He talks of morality from the Olympian heights. He talks of the moral crisis in Indian political system. And then we in Parliament, the day Hershman makes the statement start an agitation in the House for a discussion and debate. And simultaneously pressure outside is built up. Gradually crescendo of political pressure mounts on the Government.

I would also like to point out—this is also part of report—that with this group of Mr. Goenka, Mr Gurumurthy, Mr. Nusli Wadia, Mr. V. P Singh shared his collective responsibility in this whole exercise. As I said, persons with dubious pedigree, known record of criminality, with them Mr. V. P. Singh shared the collective responsibility. He had no time to share his collective responsibility of running the most vital Ministry of the Government of India on a very sensitive matter, namely, catching hold of or tracing out the so-called hundreds or thousands of crores of black money stashed away in foreign banks. If he was really serious about

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tracing out this money deposited abroad, he would have been more meticulous, as he was meticulous in other things. He would have brought this matter to the notice of the leader of his party, the Prime Minister, saying: "Sir, this information I possess." He would have brought this to the Cabinet. If Cabinet was not listening to him, if Prime Minister was not listening to him, he could have brought this matter in the party, or he could have taken the Prime Minister into confidence. This House, this august House, this sovereign supreme House of Indian people could have been taken into confidence that this amount of money is deposited abroad. This gentleman goes around the country talking in the name of farmers, workers' participation and the so-called plunder of public money, in the same breath talks of Britishers having plundered India and draws a parallel with the present situation. Sir, are you prepared to believe, is the House prepared to believe that a person with such a zeal, such a Messianic zeal, I say, would have left this matter to be tackled to be dealt with by a mere Joint Secretary to the Government of India, that is, Mr. Bhure Lal, and he would have allowed free run of the Ministry to Mr. Bhure Lal to engage such a group of persons with definite criminal background, to collect information and conduct the affairs of the Government of India in the Finance Ministry, and to trace out all that huge board of money deposited abroad? This was not the purpose I must say. I am making a firm statement that for Mr. V P Singh and his friends, the purpose was different, as is borne out by statements of Hershman. Hershman is the detective agency's Chairman. I do not know how his conscience was suddenly assailed by the sudden downfall of moral standards in India and the democratic institutions, political parties, including Opposition, everybody going corrupt and because of this load of his conscience he agrees to

collect information. Such a dangerous job he accepts for mere rule reward of Government of India. Are you kidding with the whole exercise Mr. Dandavate? Are you really serious about this matter? Therefore, Mr. Deputy Speaker, Sir, I say that when this Joint Secretary or Director, Mr. Bhure Lal took up this matter, what were the real terms of reference for engagement of Fairfax? Was it one company under scrutiny or a number of companies? That is also disputed, or contradictory statements have been given by Mr. Pandey and Mr. Bhure Lal to the Commission.

Then, Sir, is Mr. Dandavate going to support the pretext or the stand taken by Mr. V. P. Singh in his well-publicised document, the defiance that he is throwing into the face of judiciary? Are we going to believe that? Bhure Lal went to America, Mr. Dandavate. The Enforcement Director—a Government official—who is going on a mission to unearth thousands of crores hidden in foreign banks, goes there, and the Finance Minister, does not know it? Do you think that the man was not aware of it? He says he has become aware of it only after he had left the Ministry. Mr. Deputy-Speaker, I charge that such a man is either a schizophrenic or he does not know what one side of his mind thinks and what the other side does or he is a part of a larger conspiracy and the conspiracy is established. If Mr. Mulgaonkar's role is scrutinised along with engagement of Fairfax Mr. Goenka emerges as the presiding diety with the overt and covert support of CIA and CIA Advisors. Let us remember the months, the days when the House used to be rocked by charges of corruption, most trenchant criticism of the Government and that was the time when the republic itself was faced with this threat of subversion. When the Constitution itself was facing the threat of subversion, it was the same time, it was the same occasion which has been pointed out and Mr. Mulgaonkar, the former Editor of Indian Express has accep-

ted that the letter between the Head of the State and the head of the Government was drafted by him and leakage of that letter became the subject of heated debate and discussions in this very House. So, it was an umbrella of conspirators, by people who wanted to dislodge this Government through slanderous campaign through disinformation and the attempt was political destabilisation of this nation. What the report points out is precisely this scenario, this danger of national security and Mr. Deputy-Speaker, this country has a right to know from the people who have handled such sensitive matters in such a casual fashion or conversely in such a conspiratorial fashion, such people who are oath-bound to defend the constitutional functioning of the Government, to defend the administrative norms and administrative ethics of the Government. If the same people in pursuit of power, in pursuit of some fantasy of occupying the highest Chair in the country of dislodging the Government and that too in collusion with the foreign agency, hated foreign agency, which has had agony or grizzly record of destabilising Governments throughout the Third World, they must be exposed. It will hurt Mr. Jaipal Reddy, I am sorry for it but I cannot help it. Sir, I will read out from a very famous journal that is, 'Foreign Affairs' published from America. This article is written by Mr. Paul Kreisborg, a known advisor to the C.I.A. and Heritage Foundation. This article was published in 1985. The article is titled "India after Indira". If you read this, you will know all about Mr. V. P. Singh's game Hardgrave report came in this very House. I talked of nauseum absent hardgrave report, the report on the possible assassination of Indira Gandhi was commissioned by the State Department of America. I quoted from that report and after all kinds of scenarios were depicted that India will go into pieces, India will be balkanised a thesis subsequently supported by Mrs. Kilpatrick in her famous thesis in

the same tradition. This article of Mr. Kriesberg says:

"But he (Rajiv Gandhi) has also promoted more traditional politicians in his general age bracket, such as V. P. Singh, an attractive and shrewed Congress Party member of parliament in his mid-forties. Singh, Rajiv's finance minister, held several cabinet positions in Mrs. Gandhi's post-1980 cabinets and organized the Congress victory at the recent elections in the vital north Indian State of Uttar Pradesh, which has 119 million people and 84 parliamentary seats. He has the grass-roots links which Rajiv Gandhi still lacks, despite the prime minister's demonstrated appeal to the Indian voters, and yet is fully committed to honest, efficient and modern government. Singh is a man to watch for the future."

Now, this throws a flood of light on subsequent developments. A press baron who was hostile and who has been hostile throughout to Congress(I) organised the conspiracy.

PROF. MADHU DANDAVATE: There was reference to you also in one article.

PROF. K. K. TEWARY: Sir, the whole picture the *dramatis personae* the whole cost of destabilisers with the support of foreign forces, foreign powers, and people unfortunately I must say in our Party, those who took into their head this suggestion seriously are all exposed. Because there was an agency, a group of people to work on them that this could be possible I must say. Otherwise there is no explanation as to why a person like Mr. V. P. Singh goes around the country talking of thousands of crores being deposited in foreign banks. He gave this oral assignment to a Joint Secretary of the Government of India after making such a big show of it. How this money was to be retrieved, he had no idea about it. Subsequently no follow up step was taken. Therefore, I say that the whole exercise was a gigantic hoax. It was sham; it was phoney; and the only purpose

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was to unleash a propaganda war on the Government of India on the Prime Minister of this Government. Therefore Sir it continued for such a long time and now to bring to your notice Mr. Hershman—even if I accept Prof. Dandavate's contention that Hershman did come in his real form, in his actual name, he did not travel incognito, what was the necessity for Mr. Bhure Lal and Gurumurthy and Nusli Wadia to meet him in parks and hotels and so on? Sir, Mr. V. P. Singh had stated in his statement, and these officers also said, why this foreign agency was employed. It is because, they say, the Indian Embassies in foreign countries are leaky, they leak, they cannot be depended upon, RAW cannot be depended upon, Parliament cannot be depended upon, the Cabinet cannot be depended upon, the Prime Minister of India cannot be depended upon. If you analyse it, they say the Government agencies are not capable of maintaining secrecy, therefore, a foreign agency was required. Sir, our whole system, according to Mr. V. P. Singh and according to his friends those who were handling this matter in the Finance Ministry then was unreliable. And now see his apologists in the opposition now. Therefore, I say a person who has no faith in his own machinery—now many such secret operations or secret deals are negotiated and concluded every day in the Finance Ministry. They are not put in files and as Mr. Azad, a senior Member of the House and a former Minister pointed out, I do not want to dilate on the implication of the oral orders. But, Sir, 'hus-hush atmosphere', 'cloak and dagger secrecy'—these are the words used by the Commission. Therefore, I say that the whole exercise was part of a large well laid conspiracy. Otherwise Mr. Bhure Lal or even Mr. V. P. Singh would have at least taken trouble or taken care of referring verification of the facts to RAW at least. They should have depended on the Indian Embassy

there, but no attempt was made, Mr. Deputy-Speaker, the Government of India, for whatever it does, is accountable to this sovereign House. Mr. V. P. Singh whose admirers are now marshalling all kinds of ineffectual unconvincing facts are indulging in tutological arguments, repetitive arguments. If anything happens and Government does not come to the House with entire set of details, then immediately, there is a demand for censure of the Government; adjournment motion is brought in the House. Here is a man, here is a former Minister who now is going around as Messiah, as a deliverer, as a person who is promising a brave new world to everybody and the Opposition is sticking to his Coal tails for whatever gains they think, they may make in future. Left is fighting for him; Right is falling head cover heels for him. In this situation here is a person, a former Minister who made a mincement of all administrative norms, of all principles of governance, of all principles of accountability at all levels, right from Prime Minister down to Under Secretary, and then the supreme House, Parliament. Do you think Mr. V. P. Singh who was a Chief Minister, who was a Cabinet Minister at Centre, who had held several important positions was so blissfully unaware of these things? Are you going to support this thesis?

Now, a point has been raised and this again is an attempt to side track the whole issue, to distort the real perspective of the thrust, the real thrust of the Commission. And then this political propaganda was unleashed and is still on, and the canard is still on for discrediting this Government. They say, why termination of whatever it was—engagement or hiring—was delayed? This Fairfax agency was engaged on the 6th of January. Before that—I do not know, this is for Mr. Tiwari to reveal. Before that perhaps this company was working for some Indian companies, mainly Nusli Wadia, a foreign

national. I would not call him anti-Indian because he is not an Indian. His activities are covered by the expression "anti-national", not anti-Indian. They were working for him. Now, suddenly on 6th January 1987, they were appointed or engaged or hired. Then, Mr. Bhure Lal goes on a jaunt, goes to America and he perhaps is reported to have contacted some other agencies. Then, on 10th of February, Mr. Pandey, the then Revenue Secretary comes to know of it because Mr. Bhure Lal on his return filed his tour details, after one month. And then, Mr. V. P. Singh suddenly woke up and realised on, sometime in the first week of March when he was the Defence Minister. I think, this is not administratively ethical or moral to call a file against all rules of business; the Minister who has nothing to do with that Department. If Mr. V. P. Singh's conscience was clear, he could have taken the stand, "Yes, orally I have given the order". But why was it necessary when he did not formalise that order, when he was in the Finance Ministry? Why was it necessary for him to violate all norms and rules of business and call for that file?

PROF. MADHU DANDAVATE:
To avoid victimisation of officers.

PROF. K. K. TEWARY: The Prime Minister was informed about it by Mr. V. P. Singh in March. Now in the mean time, on all prophetic pronouncements of Hershman, started pouring in I submit to the House, Mr. Hershman has challenged every institution of India.

Whether you are right or wrong, whether you are good or bad, Mr. Dandavate, this institution has been built by Indian people, by freedom fighters like you are other millions of people in India. Once this institution crumbles and crumbles under such assaults of such persons like Mr. Hershman and his patrons in foreign countries, that will be the saddest day for this country.

PROF. MADHU DANDAVATE:
It would not crumble because it is stronger than Mr. Hershman. Don't worry.

PROF. K. K. TEWARY: But, Mr. Hershman was making statements and the statements were coming from America. Indian press was taking up and this House has nothing else to discuss but Mr. Hershman's statements.

SHRI BHAGWAT JHA AZAD: The opposition were raising it.

PROF. K. K. TEWARY: For the whole country, Mr. Hershman was the prophet, as it were, directing our political thinking. Now he says, "This Commission of Enquiry is a white-washing exercise." He says "I will reveal much more than what people think I suggest."

Prof. Madhu Dandavate is on record to say that "If there is one person in India who should head such a Commission, it is Mr. V. P. Singh."

Mr. V. P. Singh did not utter a word of disapproval when the entire country was being denigrated by a charlatan, a fellow, whose antecedents are unknown and are shrouded in such thick mystery. That man is speaking like this, about our institutions, about our political parties and about our Government.

SHRI BHAGWAT JHA AZAD: So far, he has not given one statement against Mr. Hershman.

SHRI S. JAIPAL REDDY: He has disapproved the conduct of Mr. Hershman.

SHRI BHAGWAT JHA AZAD: No.
PROF. MADHU DANDAVATE:
They hit Mr. V. P. Singh more than they hit Mr. Hershman.

SHRI S. JAIPAL REDDY: They have no guts like Mr. V. P. Singh.

PROF. K. K. TEWARY: I may deal with the redundant point raised by Prof. Madhu Dandavate, 8 (b) and 8(c). But I will leave it for my friend who will talk about it.

Then why the contract was not terminated? Because in the meantime,

with the approval of the House, this Commission was appointed and once the Commission was appointed, it was for the Commission to decide how to deal with this Fairfax company and Mr. Hershman. It was quite possible for them to interrogate him or to find further information from him. So, it was left to this Commission. After that, it was not for Government of India to terminate the services of Fairfax company and when the real dimension of the conspiracy was known and surfaced, then Government of India also became conscious and careful to know what this Hershman business was and what were the linkages of Mr. Hershman and what was happening which fortunately has all been revealed by, as Mr. Namboodiripad has said, this Commission.

SHRI DINESH GOSWAMI (Guwahati): The Commission was terminated during the time when the inquiry was going on.

SHRI P. R. KUMARAMANGALAM (Salern): The approval of the Commission was sought.

PROF. K. K. TEWARY: If the approval of the Commission was sought, it would have been terminated by the Government.

SHRI AMAL DATTA (Diamond Harbour): What is the legal position you please explain. Why the Government could not terminate without Commission's permission?

PROF. MADHU DANDAVATE: He is the Chairman of the public Accounts Committee.

SHRI AMAL DATTA: He makes some bald statements without substantiating them. They must be able to substantiate

MR. DEPUTY SPEAKER: You rectify whatever he stated. The hon. Minister will reply.

PROF. K. K. TEWARY: Mr. Dandavate would have us believe that because

hospitality was extended, that was the end of the matter about Mr. Hershman. Hershman was not for hospitality, was not for money. Hershman was for something much bigger, Prof. Dandavate. The dimension of the conspiracy has been exposed now that it was an all-round involvement. Letters of the Head of the State being drafted by a Columnist by a reliable dependent friend, former editor and now an employee of Goenka, on which you sought the dismissal of the Government. The same newspaper, the Indian Express, and that pen-pusher, that mercenary journalist with Heritage Foundation background and the World Bank background, he wrote and gave a call to the Head of the Government to dismiss the Rajiv Gandhi Government, although we have thumping majority of 415 persons in this House. That was part of.. (Interruptions)

PROF. MADHU DANDAVATE: Be fair in us. I publicly said that according to the provision of the Constitution, so long as the Government enjoys the confidence of the Parliament, even the President should not use that Clause to dismiss it. I said it publicly. (Interruptions)

PROF. K. K. TEWARY: Mr Deputy-Speaker, Sir, I said that my CPM friends —(Interruptions) I quote the Politbureau. Prof. Dandavate, also I do not fault him on this. He spoke in a very subdued voice but on the basis....

PROF. MADHU DANDAVATE: Strongly..

PROF. K. K. TEWARY: But it is on the basis of the same writer. And again, the same newspaper, same journalist is churning out articles after articles in the Indian Express. Therefore, I say, as to what was happening. Now, the CPI, CPM, the so-called Leftists in India, I do not want to pull punches, as Mr. Dandavate, but I make it bold to say that you have said that Fairfax is an outfit of CIA; it was an antinational act to engage the CIA. You have said that it is a CIA-FBI front. You have

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d about the entire politbureau resolution... (Interruptions). And I have quoted. But since you do not know ... (Interruptions) I have nothing much to say about the politbureau and what happened there.. (Interruptions)

So, Mr. Deputy-Speaker, Sir, since Mr. V. P Singh is now....

AN HON. MEMBER: Rajarishi...

PROF. K. K. TEWARI: Rajarishi or Brahmarishi promising Rama Rajya or whatever he is doing, Sir, he is their natural ally. This is an old history of my dear Communists, Left Parties of India. They choose wrong allies at the wrong time. In 1941-42, it was the British Imperialism which was their natural ally... (Interruptions) Now, it is Mr. V. P. Singh who had engaged or with his connivance, I must say, the CIA agency has been employed, has been engaged. He is their natural ally.

(Interruptions)

SHRI AMAL DATTA: Who is their ally?

SHRI P. R. KUMARAMANGALAM: V. P. Singh, and you.

(Interruptions)

PROF. K. K. TEWARY: Mr. Namboodiripad further explains and that makes the whole political stand clear ... (Interruptions) He says: "I am not going by what he did as a Minister. I judge him from the point of view of what he is doing today." You please see this. This is the CPM's stand. This is the Leftist's stand. As a Minister he has connived with and he got a CIA outfit appointed.

(Interruptions)

SHRI AMAL DATTA: Sir, what is he saying?

(Interruptions)

PROF. K. K. TEWARY: He endangered the security of the nation. My Leftist friends are saying....

(Interruptions)

SHRI BHAGWAT JHA AZAD: If one has to understand, one has to close his mouth and open his ears.

PROF. MADHU DANDAVATE: As far as head is concerned, the question does not arise.

(Interruptions)

PROF. K. K. TEWARY: Now, we are concerned with what Mr. V. P. Singh did as a Minister. That is what Herschman does; Herschman's mentors do; what these agencies do to destabilise.... (Interruptions) Sir, today, in the present situation, we are facing—for the last one year—all kinds of attacks have been launched on us from outside, along our borders, internal disturbances, ethnic, linguistic and regional violence have been funded very much by these forces and simultaneously. So, let us not, again, like the proverbial ostrich bury our heads in the sand. Throughout the world such agencies and such persons have brought down Governments through serious propaganda. And if Mr. V. P. Singh had even the basic honesty... (Interruptions). The company's name is there. I put this question to Mr. Narayan Datt Tiwary, Finance Minister, whose competence nobody can dispute, whose long experience as a Minister nobody can question, whose integrity nobody can question. Mr. Finance Minister, with the plethora of charges what are you proposing to do? As I said in the beginning, this was not a civil or a criminal trial; it was a fact-finding Commission. On the linkages provided by this Commission like those of Mr. Nusli Wadia—he is a national security risk—will you find his linkages in Pakistan, in America, in Nepal, all the companies that he has promoted? He is sitting over Rs. 500 crores of bank finance and a plethora of charges were levelled by Members of Parliament against Mr. Nusli Wadia. I will read out from this paper and I think the Finance Minister, if he has facts, can dispute these

[Prof. K. K. Tewari]

figures. In one decision, that is, exclusive concession for Paraxylene Import Duty, granted in one year from 1985 to 1986, during Mr. Singh's time, he made Rs. 15 crores. In another decision, abolition of countervailing duty on Paraxylene imports to make DMT production, he made Rs. 9 crores. In another decision, shifting of DMT imports from OGL to Appendix III and indigenous price increase by Rs. 1,500/- per ton, he made Rs. 10 crores per annum. In another decision, increase in import duty on PTA from 140 per cent to 190 per cent, he made Rs. 9 crores. On further increase in import duty on PTA by Rs. 3/- per kg., he made Rs. 18 crores. On proposed reduction by 40 per cent in Paraxylene import duty, he made Rs. 20 crores....

SHRI S. JAIPAL REDDY: Who is the major shareholder of the company? (*Interruptions*)

PROF. K. K. TEWARY: Mr. Deputy-Speaker, Sir, this Mr. Nusil Wadia's Company....

SHRI S. JAIPAL REDDY: What is the name of the Company?

PROF. K. K. TEWARY: The Bombay Dying Company got all these concessions... (*Interruptions*) and these concessions were granted to Mr. Nusil Wadia because he in collusion with Mr. Ramnath Goenka and his chain of newspapers was promoting Mr. V. P. Singh and was carrying on the designs of CIA and Mr. Hershman. This man was being given the benefit because he would finance this political destabilisation of this country. Therefore, I charge that Mr. V. P. Singh as Finance Minister was not unaware of the goings on and deliberately he did it to destabilise the Government... (*Interruptions*)

SHRI S. JAIPAL REDDY: On a point of order.

PROF. K. K. TEWARY: What has this Commission done? This Commission has done a wonderful job. This Commission, in particular, has laid bare the conspiracies. Now the mask has been ripped off the face of Mr. V. P. Singh and his authority... (*Interruptions*) I wholeheartedly support every word of the Commission's Report and I expect Mr. Narayan Datt Tiwari and the Government of India to take steps to impound the passport of Mr. Nusil Wadia—he is a foreign national—so that he does not run away from the country...

PROF. MADHU DANDAVATE: Also of Mr. Ajitabh Bachhan.

PROF. K. K. TEWARY: Yes. That also should be inquired into. I am not defending that. I think, that has already been inquired into.

So, all the charges submitted against Mr. Nusil Wadia and the criminal liability of Mr. Gurumurthy and other characters must be gone into in depth and national security must be safeguarded. All these characters whose head is Mr. V. P. Singh must be exposed in public as** and people who compromised national security.

MR. DEPUTY-SPEAKER: Mr. Jaipal Reddy, what is your point of order?

SHRI S. JAIPAL REDDY: Sir, he levelled many allegations against Bombay Dyeing. I support those allegations.

MR. DEPUTY-SPEAKER: What is your point of order?

SHRI S. JAIPAL REDDY: But, Sir, he made allegations against Mr. V. P. Singh without any basic whatsoever. They are baseless allegations which are not to be reported... I want to ruling. If they are allowed to go

**Expunged as ordered by the Chair.

on record, we will quote thousands of cases.

(Interruptions)

MR. DEPUTY-SPEAKER: If there is allegation..

(Interruptions)

SHRI S. JAIPAL REDDY: He is quoting Mr. V. P. Singh as **

(Interruptions)

MR. DEPUTY-SPEAKER: Mr. Jaipal Reddy, if at all there is any allegation... I will go through it. If at all it is outside the purview of this thing, I will expunge it.

SHRI V. SOBHANADREESWARA RAO (Vijayawada): I am on a point of order.

MR. DEPUTY-SPEAKER: What do you want to do? First, I will finish this.

(Interruptions)

MR. DEPUTY-SPEAKER: If at all there is any allegation, I will examine it.

(Interruptions)

PROF. MADHU DANDAVATE: You may call it a debate on V. P. Singh.

SHRI DINESH GOSWAMI: I have a point of order. Mr. Tewary very correctly has pointed out that this country has been looted of crores of rupees by Bombay Dyeing. Does the Government now openly take the responsibility that this country has been looted by the ...

(Interruptions)

MR. DEPUTY-SPEAKER: There is no point of order.

(Interruptions)

PROF. MADHU DANDAVATE: One should be prosecuted and the other should be in the Cabinet.

** Expunged, as ordered by the Chair.

SHRI V. SOBHANADREESWARA RAO: Mr. Deputy-Speaker, Sir, my learned colleagues Shri Indrajit Gupta and Prof. Madhu Dandavate has extensively dealt with over the Report. I would like to touch a few aspects only.

Sir, first of all, I have to express that the whole nation is utterly disappointed at the Report submitted by Justices Thakkar-Natarajan Commission of Inquiry. The country is utterly disappointed over this Report. This Commission which was set up with two sitting judges of the Supreme Court has taken eight months and they have given a Report. What are the new points that have been brought out by this Commission? Only a few days back, this House was informed that several lakhs of cases are pending before the Supreme Court.

(Interruptions)

MR. DEPUTY-SPEAKER: Order, order.

SHRI V. SOBHANADREESWARA RAO: Several lakhs of cases are pending before the Supreme Court and while several eminent judges are there, the Government has appointed two sitting judges and after eight months of precious time, the Report is utterly disappointing to the country.

Sir, the Report has revealed no new point except those things which were known even prior to its appointment. One conclusion made by the Commission in regard to utilising the services of a foreign detective agency is that such an exercise will endanger the national security. Sir, it is very painful to note that the Commission has come to this conclusion. I would like to draw your notice to the line of thinking of the Commission in Chapter 15, page 266, in which it is clearly stated:

"Is it supposed to get any records by pilferage or by bribing the officials of some company? Or is it

supposed to secure the information by black-mailing persons from whom information is sought? One wonders what is the special advantage that can be secured by engaging a foreign private detectives agency. If there is justification in making any investigation or collecting some information from the business concerns based in a foreign country the purpose may well be served by making approach through diplomatic channels and collecting information by lawful means. If the official agencies of a country with whom the Nation has diplomatic relations cannot secure the information how could private detective agencies do so? And it is difficult to conceive of a country with which India has diplomatic and business ties refusing to cooperate to enable the Indian officials to obtain requisite information in a lawful manner without violating the law of the country. And surely India cannot want information in a cloak-and-dagger manner by violating the law of the land of the country from which some information is sought."

19.00 hrs. [Shri Sharad Dighe in the Chair.]

This is the line of thinking that is taken by the Commission. It is nothing but teaching *Ahimsa* to a butcher who daily cuts the heads of several goats. With this type of approach, can the Government get the information? Has it got the information earlier?

Do you believe that this Government can receive the vital information relating to several big industrial houses which are having assests and moneys in the foreign banks abroad contravening our country's Foreign Exchange Regulation Act provisions?

There is a disturbing report very recently. A study of the International Monetary Fund says that the Indian

deposits in Swiss banks till 1985 and stood at Rs. 1322 crores and in the year 1985 alone Rs. 393 crores of Indian funds were deposited—the highest in any single year in the recent past.

It is not a fact that there are several thousands of crores of rupees that have been diverted to foreign banks by Indians to further their nefarious activities? I would like to know whether the efforts of the Government have succeeded hitherto in getting that information through lawful means. It is clearly stated that such efforts in the previous times did not succeed and that is why exactly the authorities have thought it fit to take the assistance of foreign detective agencies.

SHRI BASUDEB ACHARIA: Sir, it was decided to sit up to 7 O'clock. You may take the sense of the House to extend it.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI SHEILA DIKSHIT): It was decided that we will sit till 8 p. m., and if need be even after that, till we finish this debate. I would cordially invite all the Members of Parliament to the dinner at 8.30 p.m. or 8.45 p.m. here.

SHRI V. SOBHANADREESWARA RAO: Sir, the Commission on this crucial point has taken note of the points made by Shri V. C. Pande, the then Secretary (Revenue), in his statement in response to the requisition under Section 5(2) on 26th June 1987 who has stated clearly the very Purpose of engaging this foreign detective agency.

"Some time in September/October, 1986 Shri Pande who was the then Revenue Secretary in the Finance Ministry initiated a discussion with the then Finance Minister (Shri V. P. Singh) as regards the problems faced by the Director of Enforcement making investigations in regard to economic offenders where some enquiries were required to be made outside India. The ne-

cessity for engaging a foreign private detective agency was felt in the light of past experience as some cases had failed due to inability to obtain the requisite material from foreign countries. According to him Shri V. P. Singh had given him oral clearance to utilise the services of a foreign investigative agency whenever it became necessary to obtain definite evidence provided that payment was to be made only on receipt of such evidence. The clearance related to the investigation against Reliance. However, at that stage there was no mention of any particular investigative agency."

Therefore, the criticism levelled by the hon. Member who spoke a little while ago against the former Finance Minister is most unfortunate. It should be expunged from the record. It is undeserving and unwarranted. One of the former Finance Minister has also clearly agreed that engaging a foreign agency to collect information is not new to Government of India. The former Finance Minister has also stated on March, 30, 1987 which was reported in Indian Express dated 31st March, 1987 and I quote:

"This is nothing new or unprecedented. A foreign agency was contacted even when I was Finance Minister."

He revealed that a foreign agency was asked by the Government in 1975 to carry out investigation in regard to the assets of Mrs. Gayatri Devi when she reported theft of her jewellery in U.S.A. The former Finance Minister has agreed that it is not a new thing to ask a foreign investigating agency to collect information when it is required.

Regarding the action of Shri Bhure Lal in not informing the Indian Ambassador one of the learned Members from the other side criticised about the way in which our Indian Embassy was kept in drak. For this the then

Director of Enforcement has clearly stated:

"It was his experience that whenever he enquired from Ambassadors, the parties came to know about it and that is why he did not inform the Ambassador about Fairfax."

In spite of all these facts the Commission makes this comment that the national security is in danger. Is not our country's security endangered when we have decided to purchase Bofors Howitzer contrary to the recommendations of a Technical Committee in which 15 of the members have not recommended the purchase of those guns, which my friends, Shri Unnikrishnan revealed to this House a few days back.

SHRI P. CHIDAMBARAM: Have you gone through the statement of Field-Marshal Manekshaw?

SHRI V. SOBHANADREESWARA RAO: Is not the country's security endangered when a private foreign agency has been engaged to bring personnel for Prime Minister's security? Is not the country's security endangered when some other departments are taking assistance from foreign intelligence agencies? Is not the country's security endangered when our IAS, IPS and other persons in the top administrative hierarchy are being trained in USA, UK and other foreign countries? Is the stand taken by the Commission to be supported? The conclusion by the Commission even after the detailed information given by Mr. Bhure Lal, Mr. V. C Pande is most unfortunate.

It is also clearly mentioned that no information was given by Government of India to Fairfax. Then what made the Commission to comment that the country's security is in danger. This Commission's report will be a happy news to big industrial houses or big business houses which are having huge estates or accounts in the banks abroad. It is unfortunate that the Commission has made adverse

[Shri V. Sobhanadreeswara Rao] comments on Shri V. P. Singh, former Finance Minister, Shri V. C. Pande and Shri Bhure Lal, Director of Enforcement, in spite of the detailed account by each in response to the questions from the Commission under Section 5(2).

I am constrained to remark that the Commission has violated the statutory provisions under the Commissions of Inquiry Act. People are thinking that the Commission has unfortunately become a tool in the hands of the ruling party to cast aspersions, throw mud on some individuals who are known for highest integrity and honesty all these years. Is this the reward for the excellent work done by the former Finance Minister and the two officers who were only acting with firm commitment and dedication to take to task the FERA violators and the economic offenders to unearth the black money? Should we now say a good-bye to the efforts to collect the information relating to the FERA violations by several big companies and individuals? Let it not be sidetracked. Let it not be viewed from a partisan angle that it is a fight between two giants. Let it not take any side. Let us take to task all the big industrial houses or big business people or individual, whoever violates the FERA and who siphoned off the Indian banks to the foreign banks.

In the Memorandum of Action Taken, the Government says that it has accepted the findings of the Commission. It is most unfortunate. So, I request the Government to reconsider its stand.

Even though Sections 8(B) and 8(C) are very clear that the persons whose reputation is likely to be prejudicially affected by the inquiry, the Commission 'shall give' to that person a reasonable opportunity of being heard, and to produce evidence in his defence. Then, why Shri V. P. Singh, Shri V. C. Pande and Shri Bhure Lal were not served notices under Section 8(B)? Is it to be taken that the Commission has deliberately done this? Is it to be

understood that if these persons are enquired by the Commission under Section 8(B) then during the course of the inquiry, many embarrassing questions may surface which are not to the liking of the powers that be? Is it the real reason? It is strange while the Commission has dealt extensively the Statesman's 'Insight' report under the heading "No Reliance on Mystery Letter" published on 20th March 1987, it has come to a strange inference. The report has great significance. I quote from page 95 of the Commission's report:

"...If it was true, it would clearly show that the initiative for engaging the foreign agency came not from the higher officials of the Government of India, but they were either inspired or used for a collateral personal purpose of others in as much as Shri Gurumurthy had found it too expensive to hire the said agency...."

This is the way in which the Commission has commented. Why the Commission has not served a notice under Section 8(B) to Mr. Gurumurthy though he insisted the Commission to issue the notice under that Section?

Regarding handing over of a file on Reliance to Mr. Bhure Lal, the Commission has sent CBI people also to get the information by pressure. Why did the Commission fail to serve notices under Section 8(b) and give him the opportunity to appear in person and answer all the questions that are asked by the Commission? Then, the truth would have come out. Why did not the Commission resort to such a step? It is said that unless Mr. Gurumurthy resorted to dubious methods on page 128 the Commission says, 'without making recourse to some dubious mode of collecting information. Is this the way? You may recollect that Firoze Gandhi, father of the present Prime Minister, had unearthed a big scandal which rocked the whole nation. Do you mean to say that it was a dubious practice to get the information? If we are to go by the

conclusion of the Commission, we have to infer that Shri Firoze Gandhi resorted to dubious methods. Is it fair? During the last three years, the Members of this House are denied the information. You know very well that how much money was written as bad debts to the big industrialists and business houses that was agreed to by the Reserve Bank of India. The Members of this House could not get the information.

So, unless some extra efforts are made, such information will not come out. That is where the investigative agency comes into the picture. The Commission has questioned the bonafides of Mr. Gurumurthy as an investigating journalist who tried to bring out some serious lapses on the part of Reliance Industries. I have told you that inspite of Mr. Gurumurthy's request to be served a notice under Section 8(b) he has refused.

The arrest of Mr. Gurumurthy on charges of violation of Official Secrets Act, subsequent production of some letters said to have been written by Aracky of Fairfax to Mr. Gurumurthy have appeared in the Press. This letter was not at all inquired inspite of repeated reminders. The Commission did not find it fit to inquire as to how this forgery letter has come, who are the authors of that letter, whose purpose does it serve, and why did it come out at that point of time. Such an inquiry was not taken up by the Commission.

The whole exercise is to denigrate some persons mainly Shri V. P. Singh who has fallen apart with the official line of the ruling party in its attitude towards Bofors deal, West German submarines deal, the way in which the big business houses as well as some individuals who are having 5 bedrooms flats in Switzerland. That is where he has fallen wrong. That is why they are trying to find fault with you Sir. It is to defame such persons that the Commission has become an instrument in the hands of the ruling

party. It is very sad to see that on page 222, the Commission has made uncharitable comments on Mr. Bhure Lal whose credentialedness is much high and let the Minister point out a single lapse on the part of Mr. Bhure Lal who has served this Finance Ministry with all his zeal.

I draw your attention to this remark on Page 222 of the Report which is as follows:

"It has been established beyond reasonable doubt that Fairfax and Shri Hershman came to be engaged by Shri Bhure Lal by reason of the manipulation and manouevring on the part of Shri Wadia."

Is there any remark more untrue than thus? Is this the reward you are giving to one of the best officers? It is very clearly stated from the

(Interruptions)

PROF. MADHU DANDAVATE: He was one of the most honest officers.

SHRI V. SOBHANADREESWARA RAO: Why has the Commission failed to serve notice under Section 8(b) to Mr. Bhure Lal and ask him to appear before the Commission and answer the questions and find out the fact? Why did not the Commission resort to such a step?

The Commission functioned not in open; for most of the time it functioned in secrecy. Though there was accommodation in Court No. 9, in the Supreme Court, it is a wonder that the Commission preferred to sit in secrecy in the house of Justice Thakkar for almost two months in private and unannounced sittings. Unfortunately, Shri Bhure Lal was not given the opportunity. At short notice he was asked to appear before the Commission and that too without a lawyer. It is against natural justice. Is it the way in which the Commission should function? It appears that it was prejudiced and in this connection, I would like to point out one clear

[Shri V. Sobhanadreeswara Rao]

contradiction. On page 139 of the Report, it is stated:

"According to him, in about September, 1986, Mr. Pande had given him verbal clearance about seeking assistance from foreign agencies but he had not mentioned to Shri Pande about the talk he had with Shri Hershman nor did he apprise Shri Pande of his idea to utilise the services of Fairfax".

He got the clearance in September-October, 1986 and Mr. Hershman came in November. Where was the need for Shri Bhure Lal to inform Mr. Pande that he had talked to Mr Hershman. This is how the Commission had functioned. The Commission was prejudiced and it has come to wrong conclusions

In the same report on page 148 it is stated:

"In November, 1986, Shri Bhure Lal had apprised him that he had a meeting with one Dr. Harris (Mr. Hershman), a detective from the USA."

Shri Bhure Lal had not kept any body in dark. He had kept his officers informed of what he was doing. Lastly, let the Government reject this report, it is nothing but a fraud on the nation, a fraud on the people of this country. Let the Government take all necessary steps, which, if necessary, may include steps such as taking the assistance of foreign detective agencies and the information about FERA violators and economic offenders, so that action could be taken against them. But that will enable us to use that money for the well-being and welfare of our people and the development of our country.

With these words, I conclude and thank you for giving me this opportunity to participate in this discussion.

[Translation]

SHRI SATYENDRA NARAYAN SINHA (Aurangabad): Mr. Chairman, Sir, I do not understand as to what are the objectives of this discussion. You might be aware that the opposition made a demand to know the circumstances under which the Fairfax was appointed and whether it posed a threat to the country or not. Thereafter the Government set up an Enquiry Commission comprising of two Judges of the Supreme Court and the Commission has now submitted its report. It has been stated that it was only a Fact Finding Commission and has not made any recommendation. It is surprising and regretful that today the opposition is criticising the Commission. It is being said that the report of the Commission should be totally rejected and thrown into a dustbin. Both of the judges are the Judges of the Supreme Court and their report should be taken more seriously. Whatever we may say in regard to this report, we should say it discreetly. I was surprised when Prof. Dandavate, for whom I have high regards and affection, started pleading in favour of Nusli Wadia... (Interruptions) It is all right. But I fail to understand if there was any need to raise the issue that Hershman was staying in the Oberoi Hotel and he was transferred at some one's phone call. As has been reported by the Commission in consultation with Nusli Wadia that it is doubtful that the hotel charges amounted to Rs. 24,000 and the room charges were paid by Shri Hershman whereas the remaining amount of Rs. 24,000 was paid by Nusli Wadia. Because when he was asked to show the original bill he did not do so. Nusli Wadia was summoned and asked to make a statement. He refused to make a statement and caused delay in furnishing his reply. Taking all these aspects into account they became apprehensive that Nusli Wadia is also involved in it. Shri Bhure Lal has categorically admitted that he and Gurumurthy used to meet, not in his office but in various hotels. This statement of Shri Bhure Lal appears to be incorrect, because any officer of the Finance Ministry, whether he is of the

rank of a Secretary or a Joint Secretary, sits in his Chamber in office and meets people there. It is not practicable that he will go to various hotels to meet people. At least I am not aware of this sort of functioning.

(English)

SHRI S. JAIPAL REDDY: What is wrong?

[Translation]

SHRI SATYENDRA NARAYAN SINHA: Hon. Member, Shri Jaipal Reddy says what is wrong in it? He might be knowing more and I may be ignorant about it. But from my experience I know that it is not so that our officers meet people outside. Similarly it was Shri Gurumurthy who arranged a meeting with Shri Hershman. When he visited U.S.A., Hershman made up his mind to undertake this job on the basis of 20 per cent of the evaluated information. But no discussion took place as to how the expenses will be met. It was decided that he would receive payment as and when he gave any information. But Mr. Hershman evinced keen interest in the deal. He accompanied Bhure Lal at his own expenses wherever the later went in U.S.A. Who met these expenses and what was the source of this money? According to Hershman's own statement he used to charged fees on an hour to hour basis. Where from he received this huge amount and what inspired him to accompany Bhure Lal wherever he went. In view of all these developments it becomes a matter of doubt as to who is involved in it. It is not possible that Gurumurthy had the capacity to meet these expenses. That is why suspicion arose against Nusli Wadia and there is nothing to be surprised at it. The Commission said that they suspect him. If Shri Nusli Wadia has any grievance, he may go to a Court and prove his innocence that he is in no way involved in it and he has no connection with Hershman. It is regretted that the entire work was being carried on orally. Shri Madhu Dandavate

said that the Hon. Prime Minister also use to give verbal orders. It is not a wrong thing to give verbal orders. But the officers do bring such orders on record later on. Even the former Finance Minister directed Shri Pandey in the course of their talks and gave his consent to engage a private detective under these circumstances. This order of the Finance Minister has been brought on the record. Shri Bhure Lal said that he was going where. At the time of going abroad Shri Hhure Lal said that he was going abroad on official business. Thereafter he returned in January and submitted his report to Shri Pandey. I find this system of functioning very surprising. But this is the sort of work which was being don. Prof. Madhu Dandavate had also been a Minister. He will also support us when we say that this is not the way to function. It seems as if everything was done in an informal manner.

I do not suspect Shri Bhure Lal's integrity but I want to certainly submit that Shri Bhure Lal was manipulated by Shri Gurumurthy. According to his own statement, he had accepted Shri Gurumurthy's advice. You may read the report in which it is stated that Shri Gurumurthy had suggested about engaging the Fairfax and this suggestion was accepted. This has been given by Shri Bhure Lal in his statement. Shri Dandavate will also agree that an honest person can be manipulated. We are not suspecting his honesty but just that this work has been done wrongly and therefore has given rise to so much of criticism.

What has this Commission done? The Commission has simply stated in its report, after conducting due inquiry into the matter that the system of functioning of the Finance Ministry had not been proper. Some disturbing features are there. Such a major decision was taken yet there are no written record of that. It is very surprising. The Commission has drawn the attention in this direction. I do not think that any Member in the Opposition will have any objections in this

[Shri Satyendra Narayan Sinha]

regard. Everyone will support it. The Finance Ministry had carried out the entire work orally. Nothing has been put down in writing anywhere. This is not right.

I want to request the hon. Minister that such style of functioning should be changed. Whenever some oral orders are given they are immediately recorded. In the given case, nothing has been recorded.

Shri Bhure Lal did not submit any report after returning from abroad. On the 6th of February, he dictated a note in that respect which was received by Shri Vinod Pandey on the 10th of February. In the meantime, the Finance Minister came to know about it. By that time he was already transferred to Defence. He came to know about engaging the Fairfax at this stage. What can be more surprising? How will any Minister tolerate it? The fact that that was enough but I do not think Singh had not taken any action is very surprising perhaps he had given his consent. He might have thought that that was enough but I do not think so. I think it was wrong. The Commission has opined in the report that this was a disturbing feature and efforts should be made to remove such shortcomings in future. I think this is right and the Opposition should also support it. Shri Vinod Pandey and Shri Bhure Lal did not put anything in writing which was wrong on their part.

When a debate on this issue started, Shri Vishwanath Pratap Singh wanted to see the file. As per his submission, he asked Shri Vinod Pandey to show him the file. The file reached him and he informed Shri Brahm Dutt expressing his wish to set the records right and bring the oral clearance on record. Instead of informing him he ought to have written a letter to the Prime Minister stating therein as to how and on whose order the Fairfax was engaged. What he wrote here could have been given in writing to the Prime

Minister. On the basis of my experience so far, I want to say on the basis of Rules of Business that when he was no longer the Finance Minister, he should not have written a note on the file of the Finance Ministry. Shri Dandavate will also agree to it and so will all others.

(English)

PROF. MADHU DANDAVATE:
After consulting Shri Brahm Dutt.

(Translation)

SHRI SATYENDRA NARAYAN SINHA: Of course, one can consult and write but I think he had not consulted him in the sense, that he never said that he wanted to write something on the file. He said that he wanted to see the file. So he should not have written anything on the file and therefore it was not right.

Secondly, regarding payments, as I had said earlier also that no payment was made to the Fairfax and this matter requires consideration.

(English)

SHRI AMAL DUTTA: The Commission had said one thing. It wanted to see the files.

SHRI SATYENDRA NARAYAN SINHA: No, it does not say that. Shri V. P. Singh said that he told Mr. Vinod Pandey when he went to see him after the Budget was introduced to know his reaction in the Budget.

Shri V. P. Singh said, I would like to see the files. You please show me the files. That is what he said Mr. Vinod Pandey recorded this on the file.

(Translation)

The Minister of Defence wanted to see the file and it might be sent to him. Later on he informed Shri Brahm Dutt. This is wrong because if you read the Rules of Business you will find that files cannot go directly, the State Governments also follow the same rule.

[English]

SHRI INDRAJIT GUPTA: Mr. Brahm Dutt did not object to it if he knew about it.

SHRI SATYENDRA NARAYAN SINHA: *Ex post facto* he did not object to it, you can ask him. Everything had been done *ex post facto*. He didn't tell that he is going to write on it. Mr. Brahm Dutt is here, let him clarify it, whether he was told that he is going to record on it.

Mr. Chairman, the Minister of State for Finance Mr. Brahm Dutt is here and it is for him to clarify whether the former Finance Minister asked him that he was going to record a note on the file that is why he wanted it. Let him say that.

MR. CHAIRMAN: You can address the Chair. You complete your speech. Question-answer cannot go on like this.

SHRI SATYENDRA NARAYAN SINHA: Mr. Chairman, he wants to clarify it. Let him clarify it.

SHRI VIDYA CHARAN SHUKLA: You clarify it.

MR. CHAIRMAN: Question-answer form will not be useful.

(Translation)

SHRI SATYENDRA NARAYAN SINHA: Secondly, I want to submit that Shri Gurumurthy has written a number of articles about Reliance. It means that files of the Finance Department are kept elsewhere also. These files contain important and classified documents. This kind of functioning should be inquired into. The Government should see as to how these files leak out. What are the reasons behind such leakages and who are responsible for that? This results in considerable loss. As we talk about security risk in the Fairfax affair, this is equally harmful because several secrets leak out.

Just now my colleagues submitted and I also agree with them that stringent action should be taken against FERA violators and tax evaders. You are taking strong action in this regard. Large business houses are being raided and you are taking every action against them. Yesterday, Prof. Madhu Dandavate had mentioned the raid conducted in Thapar House in his speech when he apologised....

PROF. MADHU DANDAVATE: I mentioned Wadia also, I took the names of Sahu-Jain and Shri Ajitabh as well.

SHRI SATYENDRA NARAYAN SINHA: You took the name of Shri Nusli Wadia. It is alright. You may be aware that Government intends to deal severely with everybody in this regard. You may have seen that these raids have created considerable uproar. An industrialist has even written an article in the 'Hindustan Times' daily, that raids have created a sense of uncertainty in them.

SHRI VIDYA CHARAN SHUKLA: After the departure of Shri Vishwanath Pratap Singh, how many raids have been conducted? Kindly cite at least one such case.

SHRI SATYENDRA NARAYAN SINHA: Our Finance Minister will give a reply thereto.

Regarding the foreign agency, the issue is whether it should have been engaged or not? I agree that the foreign agency was hired because we did not have proper arrangements ourselves but I want to say that before engaging it proper investigations ought to have been made of its antecedents. What can be more blame worthy than the fact that we did not even try to find out the antecedents? Whatever Mr. Gurumurthy said we accepted it. We never tried to investigate the nature of its link with the C.I.A. No thought was given to see whether entrusting of this inquiry to the Fairfax, would be harmful for the

(Shri Satyendra Narayan Sinha)

country or not? It is not possible to get the entire information. If some information about the influential people is got it can be used for blackmailing them. In this way unrest is created in the country. According to the Commission attempts at destabilising the country would mean constant censure of the Prime Minister and the Government which would shake the confidence of the people in the Government. If confidence is shaken, it will become difficult for the Government to function. The orders will not be carried out. Our aims of taking the country forward and of maintaining peace and harmony will not be realised. By keeping these things in view I want to say that the Commission has submitted its report after considerable labour and its findings ought to be given consideration. It is regretful that the Opposition wants the report to be thrown into the dustbin. I want to submit that we should rather congratulate the Supreme Court Judges for the work done by the Commission. With these words, I conclude.

(English)

MR. CHAIRMAN: Now Mr. Amal Datta.

PROF. MADHU DANDAVATE: Sir, one point: Sinha Ji asked: 'While the file was invited, was the procedure followed? (Interruptions) These are only question and answers—only two lines... (Interruptions). The question by the Commission... (Interruptions) Sir, Mr. Sinha had referred to me that is why. (Interruptions)

PROF. K. K. TEWARY: He has finished his speech.

MR. CHAIRMAN: No, please; Mr. Dandavate, you are not entitled to reply to him. (Interruptions) You have already spoken.

SHRI GIRDHARI LAL VYAS (Bhilwara): Pass it on to Mr. Amal Datta.

PROF. MADHU DANDAVATE: Thank you; for once you have made a sensible suggestion.

MR. CHAIRMAN: Mr. Vyas, he does not want your advice. Now Mr. Amal Datta.

SHRI AMAL DATTA (Diamond Harbour): Sir, I think what is intended to be a mini-debate on Fairfax has drawn on for a very long time. So, I shall try to be brief.

I call it a mini-debate, because only a part of the Report has been laid before the House and made available to the Members. The Report itself says, or the authors of the Report, the two illustrious Judges of the Supreme Court say that this is a core report. Apart from this core report, there are three other volumes: Volume IA, Vol. IB and Vol. II. And what do they contain? They contain the proceedings relating to Nusli Wadia, consisting of his applications etc. in Vol. IA. Vol. IV consists of requisitions issued to others, and the responses received from them.

19.44 hrs.

[MR. DEPUTY SPEAKER in the Chair]

So, at the moment we do not know what responses have been received from others. We are only relying on that bit which the Commission has chosen to pick out, to marshal its own arguments. Then, the rest of the papers are included in Vol. II. I would like the Finance Minister, not now but after taking proper advice, to say in the course of his reply, as to why these portions have not been laid before Parliament, and have not been allowed to be used in the debate today.

Therefore, I call it a mini-debate on Fairfax, to be followed in the next Session, hopefully, by a larger debate with all the papers having been made available to us, and in good time, not

giving us only a bare 2 or 3 days' time, because this will be a voluminous report.

I would not exactly follow my learned colleagues in the opposite because I believe in the maximum giving the devil its due, not devil exactly but the illustrious judges. But the maxim goes like that. So, what can I do? These illustrious judges formed the Commission and started work on the very day. They got a letter from the Finance Secretary on 10th of April 1987. A copy of the Gazette Notification was received by the Commission from the Finance Secretary and on the same day, 20-4-1987 the Commission commenced its work at the Chairman's residence. Not a minute was wasted. Wonderful. But on 23 only a Secretary to the Commission was appointed and joined, appointed/joined, Wonderful. The Secretary of the Commission may have joined on the same day he had been appointed. But the Commission had started its work five days earlier. This is something to be noticed for the keenness with which the Commission had started upon its work; and the staff of the Commission was appointed on the 7th of May. This is wonderful. Is it not that our judges started working without anybody being appointed and in their residence also.

After that the government which was so eager to get this Commission appointed—when we were asking for a Committee of the House to be appointed because this was not a matter, according to us, fit to go before a Commission of Enquiry—this Commission was made available on office only two months after the Notification. The Notification was issued on 6th April, the office was made available to them on the 4th of June. Is it not wonderful? How eagerly the Commission had got on itself to work and produce a Report in 8 months' time, only with two extensions al-

though they started the work the moment they got a letter from the Finance Secretary?

I will not say much against the Report except to comment that this is perhaps the best example of how the judiciary gets politically manipulated for political purposes, perhaps the best example, which is a historic example of that also, as also from what the Report itself says, how the government can be manipulated. Now the government, according to the Commission, was manipulated into appointing Fairfax; and this Report says that the same government, may be two other officers, other Ministers were manipulated into appointing a Commission to exonerate the person against whom that particular agency was appointed. Is it wonderful? How is this government participating in the internal war, inter-corporate war between the two big companies; one company, according to the Commission, got the government manipulated to appoint a detective agency in a foreign country to shell out certain facts which will go against its rival? When the rival came, he manipulated the government to appoint a Commission to counter that, to find fault with the method of appointment of that particular agency. But the Commission does not say anything, although its terms of reference contain so. About the circumstances under which this Fairfax agency was appointed, the first terms of the Commission does not say clearly and unequivocally. So, it does not come to any finding on that, except to note that according to Mr. Bhure Lal, whatever endeavours he had made to find out about the foreign assets or foreign transactions, even balance sheet of a company,—Kirloskar he has mentioned here—he could not succeed in getting those information, and whenever Embassies were tried as agency for getting this information immediately the information of these endeavours leaked out to

[Shri Amal Datta]

the persons against whom the enquiry was to be made. This is Bhure Lal's excuse. But the Commission says that it could not believe, it is less than convincing. That is the phrase used by the Commission. There is no need to refer. So, the Commission finds that there is no substance in that. But did the Commission try to find out? Apart from Bhure Lal's own written answers to the Commission's written requisitions, the Commission before rejecting as less than convincing, in other words incorrect, in other words a false statement of Bhure Lal, before that, they did not ask him to come and give evidence, so that he could be cross-examined. On the other hand, the person on whose contention the Commission comes to this conclusion that Bhure Lal is telling an untruth, Bhure Lal should have been given the opportunity to cross-examine that person under Section 8B..

This Section 8B has been mentioned by most of my hon. friends before, I need not labour very much on that, except to say that the Commission has made a lot of noise about Gurumurthy not appearing before it on the ground that he will only appear on Section 8B notice, which the Commission refused to give. The Commission wanted written information. Now, Gurumurthy apparently now proves to be right. I am not holding any brief in his favour. But Gurumurthy when he says that if I give you anything which you might hold against me, you are not going to give me any opportunity to come under Section 8B before you, to cross-examine those persons who are making allegations against me. The Commission poo-hooed this plea taken by Gurumurthy. On the other hand because in the other case he is the main person against whom the Commission by implication has held them guilty, of having appointed this agency, the Commission has in spite of their giving answers to the written requisitions

the Commission have held against them without giving them an opportunity under Section 8B. This is the point which is slightly different from what has been made before. Because it shows unfortunately perhaps that Gurumurthy was right, the Commission was wrong in making this distinction between investigative stage and a stage of enquiry when an opportunity will be given. Mr. Gurumurthy saying, "You will never give me an opportunity; unless you issue Section 8B notice, I am not going to come." This is exactly what happened to the other person. And, in fact, in one case, in the case of Shri V. P. Singh, the Commission sent a second questionnaire and in answer to that questionnaire certain things were revealed by Shri V. P. Singh. Unfortunately, it appears that no portion of this found a place in the Commission's report. I am reading from a copy of this questionnaire, authenticated by Shri V. P. Singh. This is a Xerox copy. It says, in this questionnaire, "The day I made the noting referred to in this question, that is 11-3-1987 regarding oral clearance, I met the Prime Minister in the night in his office and told him that I have sent the file that was asked for by Shri Gopi Atora and also appraised him of the ground on which I had given the clearance." Even the ground has been appraised!

I continue the quotations. He said, he saw nothing wrong in the clearance I had given.

Other point is, I want to quote from another portion of this.

SHRI P. R. KUMARAMANGALAM: After saying all this, do you mean to say that Fairfax appointment was not correct.

SHRI AMAL DATTA: No, I am not saying that. Don't try to trap me now.

SHRI P. R. KUMARAMANGALAM: You should have been appointed as one of the members.

(Interruptions)

SHRI AMAL DATTA: He had said that in reply to the question 'Why he made a noting in the file when he was no longer the Finance Minister?', "I had expressed my desire to Shri Brahma Dutt, the Minister of State for Finance as well as Secretary, Revenue that I want to go on record regarding the oral clearance I had given and I did not ask the Revenue Secretary to send the file directly to me." This has been totally ignored by the Commission, and the Commission has gone on to find as if he had surreptitiously obtained the file from the Revenue Secretary only with a purpose of seeing the file and has made a noting on it, which he was unauthorised to do under the Rules of Business. Sir, is it not possible that one Minister in this case, Mr. Brahma Dutt may ask another Minister, who was his predecessor to say, 'All right, if you have taken this decision, please have it recorded in the file'. This is what his testimony and his written submission, his written answer before the Commission, and in that he has said this. Every page of it has been authenticated by Mr. V. P Singh. Therefore, it appears that the Commission has picked and chosen the evidence, the written replies which are convenient to it and have chosen to ignore the other one. In other words, the Commission has shown itself to be totally biased.

The main burden of the Commission's findings is, there has been a lapse from the procedure, which the Government should follow in a case like this. Do the Government have prescribed procedures for these things? I hope the Home Secretary or the Finance Secretary—anyone of these two will make this clear to this House. But the strange thing about the Commission's own report is this, that the Commission does not take any evidence to see what was the procedure,

whether there was any procedure and if so, what was the procedure being followed by the Government in the case of appointment or engagement or coming to an arrangement with persons who would supply evidence for the purpose of collecting better revenue, larger amount of revenue. They are habitually, I think, quite often appointing or engaging such persons, if not for external atleast for internal purposes. There must be a procedure for that. Do they write down everything about these informers? Do they keep separate files for them? Do they make entries whenever they come, when they discuss, when they go, where they meet them and all these things. So, this is something which the Commission should have done, it has not done. It is a lapse on the part of the Commission to take the evidence to establish would not be unhappy if the Commission has found out, as a matter of fact, whether the Government has a set procedure and if there is a procedure, whether there has been any laps and the Commission is within its right to find fault with all the three persons connected with this. If there is no set procedure, if these matters are kept in secret, if these matters are not kept on the file, if these matters are not recorded, we do not know now. It is for these people to say so.

SHRI P. R. KUMARAMANGALAM:
You are changing it... (Interruptions).

SHRI AMAL DATTA: I am not changing anything. Again, you have gone there. So far as the procedure for the appointment is concerned, I only say that the Commission should have done a much better job. It should have done a job, not speculate. This kind of speculation we have always been doing in the Parliament because we had no access to information. The Commission had access to all the information available with the Government of India. It chose not to get the information, but to go on speculating. Is it a commission worth

[Shri Amal Datta]

its name Is it a commission which can be qualified for the term judicial?

20.00 hrs.

PROF. MADHU DANDAVATE: It should be called omission.

SHRI AMAL DATTA: It is my humble submission that none of the matters that the Commission took upon itself to make a finding out are sustainable on the basis of the facts which the Commission has found. It says that Bhure Lal committed the Government of India to uncertain amounts of sums to be paid to the agents. This is one of the findings. Because we do know whether this 20 per cent amount to 20 crores or 2000 crores. But 20 per cent is 20 per cent. If the Government of India finds Rs. 40,000 crores which is supposed to be the money taken away and secreted elsewhere, then they have to be paid. So, was Bhure Lal actually appointed only for the limited purpose of making findings against Reliance, Dosi and three or four companies? Or was he given a blank card, a carte-blanche, for the purpose of finding out who ever has taken money out of India and finding out the bank accounts? That is what is more important. That is why I want to find out all those volumes which have not been made available to the House. It is possible, because of the apprehension, the haste with which the Government suddenly transferred Bhure Lal and Vinod Pande and transferred even the Minister and ultimately, of course, sacked him, that the engagement was much wider in scope. Not only these four people but people in high authority in this country would have been involved ultimately. That is why, the panic reaction the Government has shown. Why is it so? We can only speculate because we do not have even those papers which are now admittedly with the Government. It has not chosen to make them available to us.

PROF. MADHU DANDAVATE: PAC should ask for them.

SHRI AMAL DATTA: I may be just allowed to digress. In fact, for one of the investigations the Prime Minister had once said that instead of forming a joint committee of the Houses, the matter be investigated by one existing Committee of the House and he mentioned for instance, Public Accounts Committee. Of course, later on, for reasons best known to him, he has not given anything to PAC.

PROF. MADHU DANDAVATE: This is the measure of confidence in Amal Datta.

SHRI AMAL DATTA: I do not grudge that for a moment. I have got lot of work.

Then Shri Somnath Chatterjee has been quoted by the Commission in two places at length. And he has been quoted in this House also. He is our leader; he is our hon. colleague. We stand by what he said. We do not go against him nor do we go beyond him. What he said was simply this. In this manner of choosing an American detective agency, the very choice of an American detective agency and the manner in which it was chosen were both equally bad, heinous, detrimental to the interest of the country.

SHRI P. CHIDAMBARAM: He said more.

SHRI AMAL DATTA: I agree hundred per cent. There is no doubt about that. And the only thing on which I agree with the Commission is that it was a highly risky think to do. Possibly it had not done any harm because the agency did not do any work. Possibly it did not do any work, I do not know. The Government will not tell us anything. But he also drew attention to much larger questions and these larger questions I am quoting from his speech because it is to be put on record again: He says:

"Unfortunately, it seems that Government of India after 40 years of independence... have been

unable to find out any agency in India for the purpose of making investigation under an Indian law."

Further on he says: "So, there is a clear admission that we have not been able to build up the minimum infrastructure to find out violation of our law by Indians or non-resident Indians in foreign countries."... (*Interruptions*).

PROF. MADHU DANDAVATE. Non-Indian residents?

SHRI AMAL DATTA: No, non-resident Indians. Again he says: "... why don't you search your own heart and put your own house in order and make it clear to the people of this country." Therefore, Sir, he was on a larger perspective, much larger than our hon. friends on that side appreciate. The economic offences have been mounting over the years, and after the coming into power of this Government, they have been several times more than what they were before, because of the policy of liberalisation of the Government which gave enormous scope to the businessmen to take away the money into foreign countries. The usual rogues are known.

Now, Sir, this Government—in fact, not only this Government from 1985 but the Government preceding it—should have seen to it that there is an Indian agency capable of making investigations in foreign countries. This has not been done. And this is what we decry. When we ask for self-reliance in so many fields, why should there not be self-reliance in this field also? Why should we not be able to build up our own agency in foreign countries for the purpose of these investigations? That was the main thrust of this speech. It is not just because of the Fairfax but because this Government is incapable, incompetent and if somebody tries to rescue it, it goes against him.

PROF. MADHU DANDAVATE: Black-money should be kept in India only for self-reliance.

SHRI AMAL DATTA: Then, Sir, there is a post script to this Report and this is very interesting. This is at page 289. Obviously, after the concluding chapter had been concluded, something again had to be added. Something has been added in a style which is somewhat different from what preceded this.

SHRI P. CHIDAMBARAM: This is not after the concluding chapter.

SHRI AMAL DATTA: It has been made to look as part of the concluding chapter, but it is not... (*Interruptions*).

SHRI P. CHIDAMBARAM: That is an incorrect statement, Sir.

SHRI AMAL DATTA: I will read out one sentence. The first sentence is like this... (*Interruptions*). This is my conclusion and my finding. He cannot challenge it.

PROF. MADHU DANDAVATE: Only acknowledgement comes after that.

SHRI AMAL DATTA: The first sentence starts like this: "A last word needs to be said before the Commission concludes the concluding chapter." But it is headed as 'Post Script'... (*Interruptions*). All right, you draw your conclusions, I have drawn my conclusion because the style of English is different. The way it is written is different.

SHRI INDRAJIT GUPTA: What does post script mean?

SHRI P. CHIDAMBARAM: Post script to the answers given to the terms of reference. Post script to what? Post script to items 1, 2, 3, 4 6 and before the Chapter is over... (*Interruptions*).

SHRI AMAL DATTA: Let me read out, Sir... (Interruptions). "The services of the foreign private detective agency were being utilized in the name of and on behalf of Government of India and not on behalf of the officials who did so". Now comes the main portion: "And yet the Government and even the Prime Minister were totally in the dark about these sensitive matters." Why the Prime Minister only? Even the then Finance Minister was unaware. If the Government of India's way of functioning is different from its way of functioning when appointing agents or informers on other matters, or for internal investigation and so on, then certainly it has to be decried. Why drag in the name of the Prime Minister here? Obviously because of Mr. V. P. Singh's reply which says that on 11th March, he had informed the Prime Minister and the Prime Minister says "there is nothing wrong in that". Therefore, that had to be done and this Post Script was added.

Sir, the Commission should have found out the offences to be investigated the offences which were supposed to be investigated for which purpose the Fairfax was sought to be appointed. The Commission has not found out the way in which the fact informers were appointed in India or abroad, if at all they have been appointed. That reply should come from them. Then, what has been done in previous cases, if there has been any previous case? The Commission has not come to any definite finding as to whether Fairfax was in fact engaged or not engaged. It only says that arrangement was made to utilise its services. At some point it says that its service will be utilised. Sir, its services will be utilised only when it gives its information. That is the definite stand of the Government of India and also the Commission in other places. But when in writing, in all this, it says 'Yes, the services were utilised'. If it was utilised, what information this man gave has not been disclosed to us. I do not know whether this has been disclosed to the Commission or

not. Therefore, a lot of mysteries is still being kept in this particular matter, a lot of things is still hidden from the House. I request and call upon the Government to make all these matters available to us and then arrange to have a proper discussion because the whole country is not convinced that this commission has found the truth. On the other hand, people are convinced that what it has produced is anything but truth. Thank you.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Mr. Deputy Speaker, Sir, a wide ranging debate is on the report of Thakkar-Natarajan Commission of Enquiry. It has served to highlight one point that consistency is not the virtue of the Opposition.

SHRI AMAL DATTA: When it is not your monopoly.

SHRI P. CHIDAMBARAM: Sir, when the question was first raised in this House, in the early part of this year, we heard many eminent Members speak on a totally different voice and in a different tone. It was accusatory, inquisitorial and challenging the very credibility and integrity of this Government. Those were the days when Mr. Viswanath Pratap Singh was on this side of the House. Now that Mr. Viswanath Pratap Singh has crossed over to their side...

SHRI VIDYA CHARAN SHUKLA (Mahasamund): Not crossed over. Absolutely not crossed over.

SHRI P. CHIDAMBARAM: Crossed over to the side of the Opposition.

SHRI VIDYA CHARAN SHUKLA: That is a mis-statement, Sir. Once he is expelled, the Member does not cross over. He does not cross over after expulsion.

SHRI P. CHIDAMBARAM: Both the big and small fish of the Opposition have fallen into his net today.

SHRI AMAL DATTA: Why do you use that expression? (*Interruptions*)

SHRI VIDYA CHARAN SHUKLA: Mr. Deputy-Speaker, I want to rise on a point of correction. The Minister of State for Home Affairs must know parliamentary parlance. What is the meaning of crossing over in parliamentary parlance? It is not a question of anybody crossing over, and according to the present practice, present law and past practices you must be careful in choosing a term or word while you express your sentiments or whatever you wish to do.

(*Interruptions*)

SHRI P. CHIDAMBARAM: Sir, now that a lot of people have fallen into the net of Mr. V. P. Singh, today they find everything hunky dory in the Finance Ministry, but everything is wrong with the Thakkar-Natarajan Commission.

Sir, let me go back to the very beginning and try to narrate the sequence of events. Between March 1986 and February 1987 Shri Gurumurthy, a Chartered Accountant by profession and an investigative journalist by his own claim, wrote a series of articles, to be precise 25 in number, in the *Indian Express* exposing what he felt, and I have no quarrel with that view of any journalist, that there were serious irregularities by a particular group of companies. By his own admission, he visited the United States between the 18th of October 1986 and the 25th of October 1986.

SHRI S. JAIPAL REDDY: Who?

SHRI P. CHIDAMBARAM: If you listen to me, you will know. Who is he? The only noun I have mentioned is Mr. Gurumurthy. Remove your earphones, you will be all right.

(*Interruptions*)

SHRI S. JAIPAL REDDY: He is capable of confusion and confusing others.

SHRI P. CHIDAMBARAM: You cannot confuse me, nobody has succeeded in doing that and you won't do that. (*Interruptions*)

Mr. Gurumurthy visited New York between 18-10-1986 and 25-10-1986 and according to my information it was to enquire about certain reports on the solvency of the supplier of certain faesimile equipment to *Indian Express*. During this visit he also made inquiries regarding a non-resident Indian couple resident in New York and he also ascertained the names of some of the leading investigative agencies in the United States for his assistance and inquiries. We tried to find out how much money in foreign dollars, foreign currency, he had taken with him and according to my information, for this visit to the United States he drew 20 U.S. dollars at the time of departure at the airport. During this period Mr. Bhure Lal met Mr. Gurumurthy between July 1986 and November 1986. So, what is important is, Mr. Bhure Lal met Mr. Gurumurthy for nearly three months before Mr. Gurumurthy went to the United States and for nearly a month after Mr. Gurumurthy returned from the United States. It is interesting to know where he met him. He met him at Hotel Janpath, he met him at Hotel Taj. Then he met him, of all places, at Nehru Park, and finally he met him at the Sundar Nagar Guest House.

PROF. MADHU DANDAVATE: At Nehru Park people meet for love affairs!

SHRI P. CHIDAMBARAM: These are the places where an officer of the Government of India meets a self-styled investigative journalist. And in these meetings according to Mr. Bhure Lal, Mr. Gurumurthy was handing over papers relating to a group of companies to Mr. Bhure Lal and Mr. Bhure Lal was receiving those papers.

[Shri P. Chidambaram].

Presently, we will see what papers came into the possession of Mr. Gurumurthy and how they came into the possession. At the suggestion of Mr. Gurumurthy, Mr. Bhure Lal is invited to meet one Mr. Hershman's. Mr. Hershman comes to India closely on the heels of Mr. Gurumurthy's return of India. He is put up in the Hotel Oberoi between 15th of November, 1986 and 18th of November, 1986. And I don't think, even the most ardent supporter of Mr. Nusli Wadia can deny today that Mr. Wadia was in the Hotel at the same time. What was not produced before the Commission, a bill which was suppressed before the Commission—if it is the same bill, I do not know, because I have not compared the documents—has found its way to the hands of Prof. Dandavate. I must say that he is more enterprising.

PROF. MADHU DANDAVATE: I say, this is a registration card, not a bill.

SHRI P. CHIDAMBARAM: He is more enterprising than the Thakkar-Natarajan Commission.

PROF. MADHU DANDAVATE: But don't appoint me on the Commission.

SHRI P. CHIDAMBARAM: What happened when Mr. Hershman was here, what happened in this period? There was a very interesting report in the *Statesman* dated 20th of March, 1987. This report refers to an interview with a spokesman of the *Indian Express*. I quote:

"However, the spokesman admitted that Mr. Gurumurthy was in touch with the Fairfax Group and during a visit to the United States, examined the possibility of engaging an agency for investigation into Reliance Group of Bombay. He also admitted that the then Director, Enforcement, Mr. Bhure Lal had been in touch with the agency after Mr. Gurumurthy found them too expensive to hire. The spokesman confirmed that a meeting of Messrs. Goenka Pande, Bhure Lal

and Gurumurthy and a representative of Fairfax had taken place in New Delhi to see whether the agency could be hired by the Government."

This report was filed by an organisation, known as *Insight*—I understand they have some type of arrangement with *Statesman*—and was published on the 20th of March, 1987. The very next day, a Special Correspondent of the *Statesman* denies the story and denies the meeting. When the Thakkar-Natarajan Commission asked who was the spokesman—Shri Goenka in his response dated 8th October, 1987 said, that the spokesman who had given the interview to the *Insight* reporter of the *Statesman* was Shri—Arun Shourie. On the 20th March 1987 Mr. Arun Shourie on the admission of Shri Goenka, had given an interview in which he is quoted as saying that there was a meeting. The spokesman confirmed that there was a meeting between Mr. Goenka, Mr. Pande, Mr. Bhure Lal, Mr. Gurumurthy and a representative of Fairfax. Now, that Prof. Dandavate has access to hotel registration cards, I crave leave of him to kindly inform the House whether he knows who this representative of Fairfax was. He may try to find out from Hotel Oberoi and the registration cards who this representative of Fairfax was. On the day of 20th March, Mr. Arun Shourie confirmed that there was a meeting of these five people. On the next day on 21st March, a Special Correspondent clarified that the meeting was wrong. "There was no such meeting. Whom are we to believe? We believe that there was a meeting. We are entitled to infer that there was a meeting. We are entitled to infer that that is when the conspiracy was hatched. Mr. Goenka was asked to give further information and he was asked "Why did you not deny?". His answer is "Innumerable reports appear in the press about me. If I keep responding, I shall be doing nothing else." Here is a specific statement, made by no less a person

PROF. MADHU DANDAVATE:
You have the entire Government.
You have the Finance Minister.

[Shri P. Chidambaram].
the handwriting of Mr. Gurumurthy.

PROF. MADHU DANDAVATE (Rajapur): Sir, Mr. Jyotirmoy Bosu was in the possession of the Wanchoo Commission Report which he laid on the Table of the House.

(Interruptions)

SHRI P. CHIDAMBARAM: On the day when Mr. Gurumurthy's house was raided, Mr. Bhure Lal was in the United States—between 21st December, 1986 and 3rd Jan. 1987. It is difficult to believe that Mr. Bhure Lal did not know about this raid. It was raided on December 21, 1986. Mr. Bhure Lal was in the United States for 12 days. It is thereafter on the 7th January, 1987, he issued a letter of authorisation. We all now know the famous letter of authorisation and I don't have to refresh your memory. May I read that famous letter? It is an annexure before the Commission. It says: "To whomsoever it may concern. Directorate of Enforcement, Foreign Exchange Regulation Act, Government of India, Lok Nayak Bhavan, 6th Floor, Khan Market, New Delhi, are conducting an investigation against Reliance Industries, Bombay, India. Dr. Harris—please mark the words. It is not Mr. Herschman but Dr. Harris—a resident of 7369, MC WHORTER Place, Anandale, Virginia-22003, USA, Telephone No. so and so...and Mr. Gordon Andrew Mc Kay are assisting us in the investigation. They are authorised on our behalf to collect information. We shall be grateful if necessary cooperation is extended to them"... What is important is that the name of Fairfax does not occur anywhere in this letter. It is given to appear that they are two individuals who are assisting the Government of India and have been authorised to collect information. When Mr. Bhure Lal was asked: is there a precedent....

SHRI S. JAIPAL REDDY: Sir, he is quoting from a document which has not been made available to the House.

SHRI P. CHIDAMBARAM: It is there before the Commission.

SHRI S. JAIPAL REDDY: But the same has not been made available to the House.

SHRI P. CHIDAMBARAM: It was referred to by Mr. Brahama Dutt in the earlier debates.

(Interruptions)

SHRI S. JAIPAL REDDY: No, Mr. Minister....

SHRI AMAL DATTA: Has it been laid on the Table of the House?

(Interruptions)

SHRI S. JAIPAL REDDY: It has not been laid on the Table of the House.

(Interruptions)

SHRI P. CHIDAMBARAM: This document has been filed before the Commission.... (Interruptions) This is before the Commission.

SHRI S. JAIPAL REDDY: It was raised by Shri Amal Datta also. The documents which are part of the Annexures are not being laid on the Table of the House. Let the Minister explain. Under the Rule, he should not quote from the document which has not been made available to the House.

(Interruptions)

SHRI VIDYA CHARAN SHUKLA: Sir, any document which is quoted in the House, has to be laid on the Table of the House by the hon. Minister. He should not quote from it... (Interruptions) If he quotes from any document in the House, he must lay it on the Table of the House.

(Interruptions)

SHRI P. CHIDAMBARAM: I have no objection to lay it on the Table of the House. All I am pointing out is that the document is filed before the Commission.... (Interruptions)

I have no objection to the document being laid on the Table of the House. It will be laid...

(Interruptions)

SHRI AMAL DATTA: Will you make available that part of the report which is not available now—Part I-A...

(Interruptions)

MR. DEPUTY-SPEAKER: I want to make a reference. Two-days before, we discussed the matter regarding Shri Unnikrishnan's laying the document. At that time, the hon. Speaker had allowed that anyone can bring it...

(Interruptions)

MR. DEPUTY-SPEAKER: Therefore, now the Minister is quoting it as a right. If you want, he is ready to lay it on the Table of the House. That is what he is saying.

(Interruptions)

PROF. MADHU DANDAVATE: All we demand is that. Under the Speaker's Direction—Direction 118—I demanded whatever he has quoted should be laid on the Table of the House after authentication.

(Interruptions)

SHRI P. CHIDAMBARAM: You are raising a non-issue. I say that if the Speaker wants it, I am willing to lay it on the Table of the House... (Interruptions) Only, if there is a direction. I will lay it.

SHRI BASUDEB ACHARIA: Will you lay on the Table of the House all the volumes of the Report?

(Interruptions)

SHRI VIDYA CHARAN SHUKLA: Sir, there is no question of wanting. He should lay it on the Table of the House.

(Interruptions)

PROF. MADHU DANDAVATE: I have asked it to be laid under Direction 118.

SHRI P. CHIDAMBARAM: Sir, you may please look into it.

MR. DEPUTY-SPEAKER: Order please. Rule 368 says:

"If a Minister quote in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table, provided..."

"Provided that this rule shall not...."

SHRI P. CHIDAMBARAM: I am not taking recourse to the proviso at all. I am willing to lay it. What are they arguing about it? I am willing to lay it...

SHRI BASUDEB ACHARIA: Do it now.

SHRI P. CHIDAMBARAM: If I lay it now, I cannot quote from it again. Let me have it now. I will lay it later.

SHRI BASUDEB ACHARIA: Quote it fully.

SHRI P. CHIDAMBARAM: You are arguing on a non-issue.

PROF. MADHU DANDAVATE: For him, procedure is a non-issue!

SHRI P. CHIDAMBARAM: You are raising a non-issue. I have agreed to lay it, but you are raising it again and again. I am willing to lay on the Table. (Interruptions)

SHRI BASUDEB ACHARIA: 1-A, 1-B, Vol. II....

SHRI S. JAIPAL REDDY: What about the remaining three volumes?

PROF. MADHU DANDAVATE: Kindly quote from the other Volumes also so that we can demand their being laid on the Table...

SHRI P. CHIDAMBARAM: Don't worry. If I need to, I will quote.

The letter of authorisation was issued on 7th January, 1987. It was very carefully drafted. It does not refer to Fairfax by name. It says, people have been engaged and they are assisting the Government of India in the investigation and they are authorised to collect the information. Mr. Bhure Lal was asked as to what was the status of Fairfax and he said, for the purpose of payment, the status of Fairfax was an informer. You will kindly see page 132 where the Commission says:

"Shri Bhure Lal in his statement has stated that for the purposes of payment, Shri Hersman was treated as informer."

What is important is what he said in his Tour Report. In his Tour Report...

SHRI S. JAIPAL REDDY: Where is the Tour Report?

SHRI P. CHIDAMBARAM: Only if I quote from it, can you ask. If I do not, quote, you cannot ask for it...

SHRI VIDYA CHARAN SHUKLA: Sir, on a point of order. First of all the officers serving under the Government of India, when they are not present here to defend themselves, cannot be attacked in this mannered (Interruptions).

MR. DEPUTY-SPEAKER: Order, please. Let him raise his point of order.

SHRI VIDYA CHARAN SHUKLA: Secondly, Mr. V. P. Singh has made a clear statement that he assumes the entire responsibility for whatever action Mr. Vinod Pandey and Mr. Bhure Lal have taken. Then, why are they taking the names of the honest officers, the good officers, who have enjoyed a good reputation all the time? They are unnecessarily dragging their names here. I think, it would be in the fitness of things if the Minister restricts his reference only to the former Minister, Shri V. P. Singh.

When he has said that he assumes all the responsibility for all the action taken by the officers who were working under his direction and under his control, it is not only absolutely irregular but it is the height of impropriety for the Minister to attack these officers on the floor of the House. They are not here to defend themselves.

SHRI P. CHIDAMBARAM: Who is attacking any officer? I was reading from the record.

MR. DEPUTY-SPEAKER: The former Minister might have taken the responsibility. But the names are in the record. If any allegation is made, that can be expunged. But it is not an allegation....(Interruptions)

SHRI S. JAIPAL REDDY: I am on a point of order. My point is this. If allegations were made or adverse inferences were drawn by the Thakkar-Natarajan Commission, the Commission would have been obliged to issue notices under 8(b) and (c). The very fact that such notices were not issued makes it very clear that the Commission itself was of the view that they were not making any allegations whatsoever. Therefore, when there are no allegations made by them, what are they discussing by referring to those people?

(Interruptions)

MR. DEPUTY-SPEAKER: There is no point of order. Mr. Chidambaram, please carry on.

PROF. MADHU DANDAVATE: He will protect the Minister and hang the officers. That is his neo-radicalism.

SHRI P. CHIDAMBARAM: On 7th January, 1987, Mr. Bhure Lal issued the letter of authorisation to whomsoever it may concern, and he came back to India. One month afterwards, he wrote what is now very well known as his 'Tour Report'. On the Sixth of February, 1987, he wrote

his tour report, a very interesting report. It is also referred to in the Report of the Commission. In the first four paragraphs, there is no reference to Fairfax. Fairfax is referred to in connection with Du Pont. And he says, "I went to Delaware on 23rd December, 1986 and contacted Mr. F. D. Oyer, Director, Du Pont and Mr. Geofray Campbell Legal Adviser, Du Pont. I was assisted by Fairfax Group Limited." Sir, when was an 'Informer' taken by an officer of Government to investigate or collect information from somebody? An Informer is supposed to be a shadowy character who lurks in shadows, gives information in secret, collects his reward clandestinely and fades away into darkness. Who was this so-called Informer who goes along with an officer of the Government of India? And the word 'Informer' does not occur in the tour report. He says, "I was assisted by Fairfax Group Limited." He concludes his tour report by saying, "I have been promised co-operation by so and so. I am in touch with him. To accomplish this job effectively, I have engaged the services of Fairfax Group Limited. If the Government feels otherwise in this regard, I may please be advised accordingly." Sir, mark the last sentence, "If the Government feels otherwise, I may please be advised accordingly." This was written on 6th of February, 1987. And today, Mr. V. P. Singh, Mr. Pande and Mr. Bhure Lal trot out a story. They think that the nation is gullible to believe that story that oral clearance was given in September-October, 1986. If oral clearance had been given in September-October 1986, if Mr. V. P. Singh had given a clearance to Mr. Pande and if Mr. Pande had given clearance to Mr. Bhure Lal and Bhure Lal went with that clearance to engage an agency, where is the question of his asking, "If the Government feels otherwise, I may please be advised accordingly."

(Interruptions)

SHRI S. JAIPAL REDDY: Finance

Ministers have changed hands in the meanwhile.

SHRI P. CHIDAMBARAM: Finance Ministers have changed hands. But he could have recorded there that, "I went with the clearance of Mr. V. P. Singh". Where is the question of saying at this stage, "If the Government feels otherwise". This is the story of oral clearance. It is an *ex-post facto* story; it is an afterthought it is an invention.

(Interruptions)

PROF. MADHU DANDAVATE: In this House, Finance Minister had said "I take the responsibility."

(Interruptions)

SHRI S. JAIPAL REDDY: I have a point of order. The oral clearance supposed to have been given by Mr. V. P. Singh was never questioned by the Commission. The Minister is...

(Interruptions)

SHRI S. JAIPAL REDDY: You have a brief of the Commission. I will rely upon that.

(Interruptions)

SHRI BASUDEB ACHARIA: Please read out.

SHRI P. CHIDAMBARAM: Sir, I know the time was very short for many of the opposition members to read this 300 page Report. Let us go into the oral clearance first. What did Mr. Bhure Lal say about the oral clearance? Kindly see page 131.

SHRI BASUDEB ACHARIA: What is there?

SHRI P. CHIDAMBARAM: You should attend religious discourses because every minute yoy say 'han' 'han'.

[Interruptions]

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI P. R. DAS MUNSI): Why are you holding the baby now?

(Interruptions)

SHRI K. K. TEWARY: That is the destiny.

SHRI P. CHIDAMBARAM: Kindly see the story about oral clearance. Mr. Bhure Lal's version is...

SHRI BASUDEB ACHARIA: In which page?... (*Interruptions*)...

SHRI P. CHIDAMBARAM: I know, what can I do? I cannot but be amused when he asks such questions.

PROF. MADHU DANDAVATE: Is it defamatory?

SHRI P. CHIDAMBARAM: No, I told him the page number twice. Kindly see Page No. 131, in the middle of the Page:

"Later on he met Shri Gurumurthy in Nehru Park. Another meeting took place in the Guest House of the Indian Express Group at Sunder Nagar. He had not met Shri Gurumurthy in his own office for reasons of secrecy. It was in the course of the meetings that he had requested Shri Gurumurthy to explore the possibility of finding a person who would render assistance in the investigation abroad. Shri Bhure Lal told him that he wanted the assistance of some one in the USA in the investigations and Shri Gurumurthy had promised to be on the lookout when he went to the USA himself. Later on Shri Gurumurthy telephoned him to say that Dr. Harris, alias Mr. Hershman, ... was available in Delhi and he could meet him. Thereupon Shri Bhure Lal requested Shri Gurumurthy to arrange a meeting with Mr. Hershman".

If you will skip some lines and see the last four lines:

"No written minutes of the talks were maintained and no written agreement was signed. Nor had Shri Bhure Lal informed his superior viz the Revenue Secretary about the meeting that had taken place. In December, 1986 (21st December 1986) he went to the USA. When he sought permission to go to USA he did mention that he proposed to go to U S A in connection with the investigation relating to Reliance. On reaching USA he contacted Mr. Hershman who was called to his Hotel. He stayed in the

USA for 12 days... It was then that Mr. Hershman had agreed to work on the basis of the reward...

We will skip all that and then come to Page No. 139... (*Interruptions*).... Page No. 131 is the background. Now come to Page No. 138 bottom:

"The version of Shri Bhure Lal is that when he sought permission to go abroad, he did mention that he was going to USA in connection with the enquiry into the matters pertaining to Reliance. He however stated that he had orally informed the Revenue Secretary Shri Pande that he was going to USA, for making enquiries about Reliance but he had not informed Shri Pande that he proposed to make enquiries about other parties. Though he had returned on January 3, 1987 he had orally told Shri Pande on January 10, 1987 that he had made such an arrangement with Mr. Hershman..... He later on clarified that he had not given the name of Fairfax when he had a talk with Shri Pande on January 10, 1987. It was only on 6-2-1987 he sent the tour note, after nearly a month. The tour report is the first paper on the Fairfax file. Admittedly Shri Bhure Lal had not informed Shri Pande when he proposed to utilise the services of Fairfax. According to him in about September, 1986, Mr. Pande had given him verbal clearance about seeking assistance from foreign agencies but he had not mentioned to Shri Pande about the talk he had with Shri Hershman...."

September, 86—before he met Mr. Hershman—he had got verbal clearance about seeking assistance of foreign agencies; but before he left for the United States and after he came back from the United States he did not report to Mr. Pande about engaging Fairfax until he wrote the tour report one month later. What does Mr. Pande have to say on this? Kindly see Page Nos. 147 and 148.

PROF. MADHU DANDAVATE: Is it the same report on which Mr. Brahma Dutt made his notings?

SHRI P. CHIDAMBARAM: Kindly see Page 147.

SHRI AMAL DATTA: We have all read the Report.

SHRI P. CHIDAMBARAM: If you had, you would not have asked me all this.

PROF. MADHU DANDAVATE: I think even the Commission might not have read the Report so many times!

SHRI P. CHIDAMBARAM: "According to him Shri V. P. Singh had given him oral clearance to utilise the services of a foreign investigative agency whenever it became necessary to obtain definite evidence provided that payment was to be made only on receipt of such evidence...."

"...The clearance related to the investigation against Reliance."

Please note that clearance given by Mr. V. P. Singh related to the investigation against Reliance. This is borne out by Mr. Pande's note. Mr. Pande in his note dated 9th March, 1987 says: He obtained oral clearance of Mr. V.P. Singh for investigation against Reliance. Now let us go back to Mr. V. P. Singh. Mr. Bhure Lal says he got it from Mr. Pande in September but not before he went and not after he came back. Mr. Pande says he got oral clearance of Mr. V. P. Singh in relation to the investigation of Reliance. Now let us see what Mr. V. P. Singh says. Kindly see page 166:

"The Revenue Secretary had raised the issue in the context of investigation against Reliance industries. However, he (Mr. V. P. Singh) had given clearance for utilisation of the services of a foreign agency in regard to FERA violators and economic offenders in general."

Mr. V. P. Singh says that he did not give clearance with reference to Reliance but he gave clearance with regard to FERA violators and economic offenders in general. Mr. Pande understands that as meaning you can engage a foreign investigative agency for investigating Reliance.

PROF. MADHU DANDAVATE: FERA violators do not include Reliance!

SHRI P. CHIDAMBARAM: The point is that Mr. Pande understands it as only against Reliance. Mr. Singh says it is against the whole world — against every FERA violator and every economic offender. Mr. Pande understands it as only against Reliance. And when he speaks to Mr. Bhure Lal—we do not know whether Mr. Bhure Lal spoke to Mr. Pande first or Mr. Pande spoke to Mr. V. P. Singh because everybody is very careful. Even in March 1987 nobody will say when this oral clearance was given. Nobody will give a date. (*Interruptions*)

SHRI S. JAIPAL REDDY: September/October.

SHRI P. CHIDAMBARAM: September/October according to Mr. Pande. (*Interruptions*) The point is when did you give the clearance? Who gave the clearance and what was the clearance given? Mr. V. P. Singh gave clearance between the monsoon session and winter session against all FERA violators. Mr. Pande understood it, without referring to a date, against Reliance. Mr. Bhure Lal got it in September 1986 long before he had completed his discussion with Mr. Gurumurthy but Mr. Bhure Lal and Mr. Pande did not discuss engagement of a foreign investigative agency before Mr. Bhure Lal went to America and after he came back from America.

Sir, this story of an oral clearance is an after-thought. The story of an oral clearance is an invention. The story of an oral clearance is to cover up...

SHRI S. JAIPAL REDDY: Sir, I rise on a point of order. Where does the Commission report say that oral clearance is a story and an invention? (*Interruptions*) Government had appointed the Commission. So Mr. Chidambaram has a story of his own.

PROF. MADHU DANDAVATE: He is casting aspersions on the officers who cannot defend themselves here.

(*Interruptions*)

SHRI S. JAIPAL REDDY: I knew that you were an advocate but I never

[Shri S. Jaipal Reddy]

knew that you are a bad advocate in addition to being a bad Minister.

PROF. K. K. TEWARY: Sir, if some information is to be supplemented in order to explain the findings of the Commission that Government can always supply to the House and the hon. Members should not object to it because necessary information can always be supplied by the Government. Why should Government hide anything from the House? It is not V. P. Singh's style.

SHRI S. JAIPAL REDDY: 'He is speaking on behalf of the Government. Therefore, the Minister has to base every inference of his on the Commission's report.

(Interruptions)

SHRI P. CHIDAMBARAM: Why everybody is getting excited? Kindly refer to page 271. I am entitled to read the report in the manner it appeals to my mind as well as you are entitled to read the report in the manner it appeals to your mind....(Interruptions)... Wait a minute, Mr. Jaipal Reddy.

PROF. MADHU DANDAWATE: He is reading between the lines.

SHRI P. CHIDAMBARAM: The words "oral clearance" are put in inverted commas. It was in the wake of this "oral clearance" given by Shri V. P. Singh to Shri Pande and by Shri Pande, in his turn, to Shri Bhure Lal that the understanding with Shri Hershman was arrived at. The reasoning appeals to be less than convincing.

The Commission has doubted "oral clearance". The Commission has put the words "oral clearance" in inverted commas and says the reasoning given by the three people is less than convincing. Therefore, the Commission has doubted the oral clearance. I am entitled to add to the doubt and say this Commission does not believe the oral clearance. These are the words here... (Interruptions)...

SHRI VIDYA CHARAN SHUKLA: It is only a conjecture.

SHRI BASUDEB ACHARIA: That's a misprint...a conjecture...

(Interruptions)

SHRI P. CHIDAMBARAM: What is the meaning of inverted commas? Professor, explain to us.

PROF. MADHU DANDAVATE: Inverted commas mean inverted arguments. Inverted commas appear to be unconvincing.

SHRI P. CHIDAMBARAM: No, he puts oral clearance in inverted commas and then says: "The reasoning appears to be less than convincing." What does that mean? That means the Commission is not convinced about the theory about the clearance from Mr. V. P. Singh to Mr. Pande and Mr. Pande to Mr. Bhure Lal...(Interruptions)...You can read it in your way. In March, you read it differently. In December, you read it differently.

SHRI AMAL DATTA: What is the point you have established?

SHRI P. CHIDAMBARAM: The point I have established is that there is no oral clearance.

[Translation]

SHRI RAM DHAN (Lalganj): After returning from Harvard, you will understand it differently.

[English]

SHRI P. CHIDAMBARAM: Don't become a one-issue Member, Mr. Ram Dhan. I can quote from the file where the then Finance Minister Mr. V. P. Singh, has put his approval on many of the things which we are talking about.

[Translation]

SHRI RAM DHAN: If you have courage, do quote it and take action.

[English]

SHRI P. CHIDAMBARAM: Sir, on the 17th of February 1987, then

Minister of State in the Finance Minister Mr. Brahma Dutt, raised some questions. Very simple question: Who gave you the authority? Was there a precedence for this? Has this been done before? Is there a record?

It takes 20 days for Mr. Bhure Lal to answer those queries. The queries are answered on 9th March 1987.

SHRI AMAL DATTA: Can you answer them now?

SHRI P. CHIDAMBARAM: He has answered them after 20 days: I did not engage anyone in America to answer that.

PROF. MADHU DANDAVATE: You are likely to distort his version...

SHRI P. CHIDAMBARAM: He took 20 days to answer simple queries and on his own, in the first week of March, he called upon Mr. V. P. Singh. To quote him: "to ascertain his reactions to the budget which had been presented".

After he calls upon Mr. V. P. Singh, he records a note on 9th of March, 1987 giving his clarifications to the queries raised by the Minister. And then the file wends its way to the Defence Ministry so that Mr. V. P. Singh can record his now famous note on the 11th March, 1987.

A lot of things happened in this country during that time. I do not have to remind the Hon'ble Members about the things which happened in this country on the 9th of March and the 11th March and that week.

SHRI AMAL DATTA: Why don't you remind us in your own way?

SHRI P. CHIDAMBARAM: I will remind you. Sir, a very high constitutional authority wrote a confidential letter, a document which is ordinarily—everybody will agree—a top secret document. And the confidentiality of the document should have

been maintained. That letter, according to the admission made by a very senior editor of a paper then, was a letter which was drafted by many eminent persons including a very senior editor of a newspaper. The letter was sent, if I remember right, on the 9th March. It was published in a newspaper on the 13th March, 1987, If you care to ask Shri V. P. Singh what he did in the Defence Ministry, he will tell you about some other notings he made at about the same time in the Defence Ministry... (*Interruptions*). I will tell you what I think. I should tell you now.

The week between the 9th and 13th March, 1987 is a crucial week in which a clear attempt to destabilize the constitutionally elected Government of this country.. (*Interruptions*) Do not run away from the facts.

On the one hand, a constitutional crisis was sought to be created, on the other, a Minister who had no authority to call for a file had called for a file and recorded what in retrospect, we are entitled to comment upon as an after-thought, and a cover-up of what happened in the last two months.

Simultaneously, in the Defence Ministry, certain notings were made by the same person which came to light later in the first and second week of April. This is the crux of the issue before us. The crux of the issue before us is—are there no hands, are there no people, are there no forces and to quote Shri Somnath Chatterjee, are there no agencies which are interested in destabilizing this country?

SHRI S. JAIPAL REDDY: Forces from Harvard University!.. (*Interruptions*).

SHRI P. CHIDAMBARAM: You have said that a hundred thousand times. If I can ungraduate, I would rather ungraduate today, but I cannot ungraduate; I can only send you to graduate from there now. If you want to go there now, I will send you

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and make you a graduate. I cannot ungraduate anymore; I can send you to graduate in the same place... (*Interruptions*)

What is important is that on the 11th March, 1987, according to Shri V. P. Singh's response to the questionnaire, he had no idea, no information what was going on. He had merely recorded a note, but for the first time, he came to know what is going on about Fairfax, about names etc., when he read newspaper reports based upon a bail application filed by Shri Gurumurthy and the 'Statesman' had reported it on the 20th March, 1987. Kindly ask yourself a question: When did Shri V. P. Singh come to know and the answer is on page 166 of the report... (*Interruptions*)

SHRI AMAL DATTA: The House has not been extended beyond 9 p.m.

MR. DEPUTY-SPEAKER: I think, we have already extended the time of the House till this discussion was finished... (*Interruptions*)

SHRI S. JAIPAL REDDY: Let Shri Chidambaram throw some light on the forged letters?... (*Interruptions*)

SHRI P. CHIDAMBARAM: If you make a statement, I will answer it... (*Interruptions*) If Prof. Madhu Dandavate will make a charge that an agency of the Government of India forged these letters, I will answer it... (*Interruptions*).

PROF. MADHU DANDAVATE: There is an apprehension in the minds of the people... (*Interruptions*).

SHRI P. CHIDAMBARAM: I am not going by hunches. If you take the responsibility and say that an agency of the Government of India... (*Interruptions*). If Prof. Madhu

MR. DEPUTY-SPEAKER: No interruptions please. Let him say what-

ever he wants to say; then, I will come to you.

PROF. MADHU DANDAVATE: You should have taken note of a number of news items that have appeared in the press... (*Interruptions*)

SHRI P. CHIDAMBARAM: You charge this, and I will answer... (*Interruptions*)

PROF. MADHU DANDAVATE: Where is the question for that?

SHRI P. CHIDAMBARAM: You make a charge and I will answer that.

(*Interruptions*)

SHRI S. JAIPAL REDDY: My point of order is that the Minister of State for Home said in course of the interruption when Prof. Dandavate was speaking that he would be referring to the question of forged letters when his turn for speaking comes.

(*Interruptions*)

SHRI P. CHIDAMBARAM: No.

(*Interruptions*)

PROF. MADHU DANDAVATE: I say there is a doubt because the news has repeatedly come in the newspapers. Then where is the question of charge?

(*Interruptions*)

PROF. MADHU DANDAVATE: I am not a prosecutor. Why should I make the charge? I want him to clarify it. Repeatedly the news has appeared.

SHRI P. CHIDAMBARAM: You frame a charge, then I will answer. Otherwise, I will not answer.

(*Interruptions*)

SHRI S. JAIPAL REDDY: What have you got to say to the allegation levelled by Mr. Gurumurthy about the letter? What have you got to say regarding the allegation levelled by the CBI and Mr. Hershman himself? What has Government got to say?

The Minister knows it and he is deliberately withholding it from the House. This is my charge.

My charge is that the Minister knows the fact. He is deliberately withholding it from the House. Let this charge go on record.

SHRI V. SOBHANADREESWARA RAO: He is keeping it for himself.

SHRI P. CHIDAMBARAM: If there is a charge that an agency of the Government of India has produced some letters—allegedly forged—in the Court is made, then I will answer.

(Interruptions)

MR. DEPUTY SPEAKER: I am not allowing anybody.

SHRI S. JAIPAL REDDY: Here is the clever Minister trying to mislead the House.

PROF. MADHU DANDAVATE: Photostat copies of the letter appeared...

(Interruptions)

SHRI P. CHIDAMBARAM: I will answer that.

PROF. K. K. TEWARY: Every Press Report has not to be replied. If you have authenticated statement, why can't you make a charge straightaway here in this House? The Minister is challenging you. All right, make a charge.

SHRI S. JAIPAL REDDY: Why don't you have a moral courage to clarify this issue?

(Interruptions)

SHRI P. CHIDAMBARAM: There is no point in shouting.

(Interruptions)

PROF. MADHU DANDAVATE: Anyway, there is some skeleton in the cupboard.

SHRI P. CHIDAMBARAM: There are no skeletons. You tell us that there are skeletons; you charge us then I will answer. *(Interruptions)*

You said it first and when I challenged you, you withdrew it. You said it was a hunch.

PROF. MADHU DANDAVATE: The newspapers have carried number of times that Mr. Gurumurthy had made a statement.

SHRI P. CHIDAMBARAM: Mr. Gurumurthy's statement in the Court has been answered in the court. Mr. Nusli Wadia's statement in the Commission has been answered in the Commission. If Prof. Dandavate wishes to make a charge on the floor of the House that air agency of the Government of India has used or produced any letters which are forged, I am ready and willing to answer the charges.

PROF. MADHU DANDAVATE: I am only saying that it has appeared in the Press...

(Interruptions)

SHRI P. CHIDAMBARAM: Why should I answer the Press Report? I am not going to be diverted. I want to continue with what I was saying. Sir, according to Mr. V. P. Singh...

(Interruptions)

PROF. MADHU DANDAVATE: If you do not want to clarify it, then go to 'Hell'.

(Interruptions)

SHRI P. CHIDAMBARAM: Come with me. Show me the way.

(Interruptions)

PROF. MADHU DANDAVATE: 'Hell' is not defamatory...

SHRI P. CHIDAMBARAM: 'Hell' is very much parliamentary. 'Heaven' is derogatory. Sir, according to Shri V. P. Singh, he came to know about the engagement of Fairfax only after he was shifted from the Finance Min-

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istry, from the Press Reports pertaining to the two letters alleged to be addressed by M/s. Fairfax Group Co., that is when he came to know about the engagement of Fairfax from the Press Reports.

AN HON. MEMBER: Who?

SHRI P. CHIDAMBARAM: Shri V. P. Singh.

The first Press Report appeared on the 20th of March, 1987 in *The Statesman* where a letter—allegedly a letter—allegedly in the possession of an agency allegedly forged, was reprinted in *The Statesman*. So he comes to know about it on the 20th of March, 1987. May I ask, Sir, if he came to know of that on the 20th of March, 1987. May I ask, Sir, if he came to 11th of March, 1987 that he had given an oral clearance to the engagement of an agency? If the file had gone to him and if he had gone through the whole file and recorded the note on the 11th March, 1987, he should have known it on the 11th of March, 1987 that an agency had been engaged on the 7th of January, 1987. There was the tour report of the 6th February, 1987 and questions had been raised on the 17th of February, 1987. Where is the consistency; where is the logic? Did he read the file, or did he not read the file? (Interruptions) Let me ask the question, Sir: Did he read the file, or did he not read the file?

PROF. MADHU DANDAVATE: Wonderful logic; you deserve to be a Cabinet Minister.

SHRI P. CHIDAMBARAM: He notes on the 11th March, 1987, ratifying everything; and he says in answer to the Commission that he came to know about it only from Press reports; and the Press report is dated 20th March, 1987.

SHRI BASUDEB ACHARIA rose—

SHRI P. CHIDAMBARAM: I am not yielding. No. Sir, look at the inconsistency... (Interruptions)

SHRI S. JAIPAL REDDY: You are deliberately confusing.

SHRI P. CHIDAMBARAM: Look at the inconsistency. I am not confusing. If you follow logic, if you follow argument, you will know what I am saying.

SHRI BASUDEB ACHARIA: With Oral clearance and actual engagement... (Interruptions)

SHRI P. CHIDAMBARAM: I am not yielding. Did he see the file or not, on the 11th March, 1987? If he saw the file, he knew it on the 11th March. He goes and tells the Commission that the first time he came to know about it was when he saw it in the Press reports on the 20th March, 1987.

SHRI BASUDEB ACHARIA: How can he know?

SHRI P. CHIDAMBARAM: The file was before him. (Interruptions)

SHRI S. JAIPAL REDDY: Will you lay the file on the Table?

SHRI BASUDEB ACHARIA: You lay the whole file on the Table.

SHRI AMAL DATTA: According to Mr. V. P. Singh, on the 11th March, the file was sent to the Prime Minister's Secretariat.

SHRI P. CHIDAMBARAM: On the 11th March, the file was recalled by the Prime Minister's Secretariat. According to Mr. V. P. Singh's statement which was circulated to every hon. Member of Parliament and which contains his answers, he says that the file was recalled on the 11th March; and he had the file on the 11th March.

(Interrtuptions) The file had no business to go outside the Finance Ministry without the permission of the Finance Minister. That is the rule of business.

PROF. MADHU DANDAVATE: Don't rely on the Minister; he will create complications.

SHRI P. CHIDAMBARAM: There are no complications, Prof. Dandavate. That may be the way you run the Janata Govtrnment. That may be the way they ran the kingdom in March. That is not the way the Government of India should be run. (Interruptions) The Prime Minister was the Finance Minister. Maybe that is the way Mr. Singh would have run his little principality in Manda. That is not the way the Government of India should be run.

[Translation]

SHRI RAM DHAN: The rest is being done by you. You have been charged that you are getting the Indian Army and Tamils in Sri Lanka killed. You will not understand it that you have destroyed the country. Even then you will not understand it.

[English]

(Interruptions)

MR. DEPUTY SPEAKER: Order, please.

SHRI P. CHIDAMBARAM: If I am not interrupted, I will complete quickly. (Interruptions)

SHRI AMAL DATTA: Does the Government require all the hon. Members to be graduates from Harvard? (Interruptions)

SHRI P. CHIDAMBARAM: I have not said it. *Ad nauseam* you are saying this, Mr. Amal Datta. You have said it a million times. What does it prove? It proves nothing. Are you not ashamed that you have said it a million times? What are you trying to prove? People have gone to every university in the world.

SHRI BASUDEB ACHARIA: You are bringing in extraneous matters.

SHRI P. CHIDAMBARAM: No; you must follow logic and argument. That is the way Government of India should be run.

PROF. K. K. TEWARY: Mr. Barrister, wherefrom did you get your bar-at-law; from the Calcutta University?

MR. DEPUTY SPEAKER: Let the Minister complete it; why are you shouting? (Interruptions)

PROF. MADHU DANDAVATE: He is so inconsistent that he should be laid on the Table.

SHRI P. CHIDAMBARAM: Kindly see the bail application filed by Mr. Gurumurthy and which is extracted at page 105 of the report. Why was Fairfax engaged; who engaged Fairfax and under whose orders was Fairfax engaged? You see the bail application.

SHI BASUDEB ACHARIA rose.

SHRI P. CHIDAMBARAM: I am not asking for any certificate from you. Kindly read it. It says, at page 105;

"... the petitioner seriously thought of utilising the services of a very competent detective agency properly equipped to carry on this investigation. Some public spirited friends, and acquaintances of the petitioner with interest in the usefull work which the petitioner was doing could have been in a position to bear the cost of employing such an investigating agency. However no such need arose under the circumstances hereinafter mentioned. Through one of the most prominent firms of lawyers in the United States the petitioner discovered that one of the ablest detective agencies was Fairfax group. The

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petitioner however had no occasion during that visit either to utilise their services or even to contact them..”

“... That therefore in India the petitioner was contacted by the Directorate of Enforcement. The petitioner was told that an investigation was being conducted substantially into the allegations that the petitioner has made during the course of his articles against Reliance Industries Ltd. The petitioner confirmed the truth of everything that he was stated in his articles and also conveyed to the Directorate that he was busy collecting more information and for that purpose he had visited the United States earlier. The petitioner also explained that he was thinking of meeting the detective agency and even conveyed the name of the detective agency to the Directorate. Since the Government authorities had themselves embarked upon the investigation of the petitioner's allegations the petitioner did not consider it necessary himself to carry on this investigation. It was obvious to the petitioner that the Government with its superior resources can do much better if they were honestly wanting to investigate the case. The petitioner says that the Directorate of Enforcement have employed Fairfax Group for the purpose of carrying on their investigation. The petitioner does not know the terms of the employment or the remuneration paid or the results achieved but the fact of employment is perfectly well-known to the petitioner and the petitioner is in a position to prove it.”

What does this show? This shows that the Finance Minister of India presiding over the Finance Ministry does not know about engagement, does not know about the terms of the engagement, does not know about the purpose of the engagement, does not know the agency or the person which is engaged but a totally third person, an outsider, who has no connection with the Government, not only does he assert that he knows about the engagement, that he was instrumental to bring about an engagement he is willing to prove that if he is challenged about the engagement. Who was running the Finance Ministry? Was Mr. V. P. Singh running or Mr. Gurumurthy running the Finance Ministry? That is the issue. (Interruptions).

PROF. MADHU DANDAVATE:
All your Ministries are only being run by the Prime Minister. (Interruptions).

SHRI P. CHIDAMBARAM: Did any one verify the antecedents of the Fairfax? Kindly see page 140 of this Report—Mr. Bhure Lal's statement. (Interruptions) He is an officer of the Government of India. On page 140, he says as follows:

“Shri Bhure Lal did not enquire from the Indian Ambassador with regard to the antecedents of Fairfax people. It is clearly stated by Shri Bhure Lal that he did not verify the antecedents of Dr. Harris from a third party that is to say from anyone else other than Shri Gurumurthy. The reason given by Shri Bhure Lal for not enquiring from the Indian Ambassador was that he had gone to USA for undertaking enquiries and for reasons of security he did not inform the Ambassador about it. . . .”

(Interruptions) Ambassador is no good. Ambassador is a security risk. Mr. Gurumurthy is not a security risk about the antecedents of Fairfax. He cannot ask the Ambassador, but he will ask nobody except Mr. Gurumurthy about the antecedents of the Fairfax. On page 140, he further states as follows:

"He also stated that it was his experience that whenever he enquired from Ambassadors, the parties came to know about it and that is why he did not inform the Ambassador about Fairfax."

In one stroke of the pen, he has tarnished the image of all the Ambassadors to the Government of India, any Ambassador anywhere. If he had made an enquiry, it would have come to be known by the party. Has he produced one piece of evidence in support of the statement? (Interruptions) Here is a person who has totally sold the interest of the Government of India, the judgement of the Government of India, the resources of the Government of India to a third party. He will not trust his Ambassador, he will not trust his Minister, he will not trust his Government, he will not trust his Prime Minister, but he will trust a totally third person who is carrying on an investigation for his own purpose and who found in Mr. Bhure Lal a willing collaborator who could be used to get Government money to support an investigation, which Mr. Gurumurthy wanted to do. He may have a laudable motive, but the point is: is this the way in which Government's money must be placed at the disposal of a third party in order to advance an interest of somebody else? (Interruptions) Let me conclude. (Interruptions)

The House may remember that the notification constituting the Commission was published on the 6th April, 1987, when Mr. V. P. Singh was a member of the Council of Ministers, a member of the Cabinet and a Member of the CCPA. He was a party to the decision which drew up the terms of reference and we on this side categorically state that the terms of reference were by and large drawn up by Mr. V. P. Singh and when the terms of reference were finalised by the Government, Mr. V. P. Singh subscribed to the terms of reference. It may suit his convenience, it may suit the convenience of some Opposition members today to say that these were not the terms of reference but some other terms of reference should have been referred.

AN HON. MEMBER: It cannot be so.

SHRI P. CHIDAMBARAM. The fact remains that on the 6th of April, Mr. V. P. Singh was a party to the decision, he was an active draftsman of the terms of reference, he subscribed to this decision and the decision was notified in the Gazette.

Mr. V. P. Singh complaints today, that he was not given notice under Section 8B. Sir, look at his own statement which he has circulated to hon. Members of Parliament:

"After reply to the questionnaire I thought that the Commission was satisfied with the answers. If it were not, it would put further question or give me a notice under Section 8B."

Mr. V. P. Singh admits that if the Commission was satisfied about his

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answers and I will come to his answers in a moment, there was no need for giving any further notice under Section 8B. This is Mr. V. P. Singh's statement. *(Interruptions)*

You cannot argue a case which Mr. V. P. Singh has not argued.

SHRI V. SOBHANADREESWARA RAO: You heard him in the Rajya Sabha.

SHRI P. CHIDAMBARAM: I was there in the Rajya Sabha when he spoke.

"After replying to the questionnaire, I thought that the Commission was satisfied with my answers; if it were not satisfied, it would put further question to me or give me a notice under Section 8B."

Statement

PROF. MADHU DANDAVATE: Just a minute. It is not Mr. V. P. Singh alone who was involved. There were officers; there were also officers. 8B and 8C are applicable not only to X and Y alone.

SHRI P. CHIDAMBARAM: Mr. Bhure Lal and Mr. Pande have not complained, when they complain we will deal with that. Mr. V. P. Singh has complained and I am answering Mr. V. P. Singh's complaint. *(Interruptions)*.

SHRI S. JAIPAL REDDY: We have complained on behalf of Pande and Bhure Lal.

SHRI P. CHIDAMBARAM: Sir, I am answering Mr V. P. Singh's complaint. His complaint is that he must have been given a notice under Section 8B. A notice under 8B on his own admission can be given to him

only if the Commission was not satisfied with his answers and if the Commission was not satisfied with them, they will ask him.....

PROF. MADHU DANDAVATE: It is a mandatory provision. He is misinterpreting.

SHRI P. CHIDAMBARAM: I am not misinterpreting. I know what I am talking about it.

PROF. MADHU DANDAVATE: We know that you know what you are talking about. It is a mandatory provision.

SHRI P. CHIDAMBARAM: Mandatory provision, only there is an inquiry into the conduct. And Mr. V. P. Singh understands the provisions of law much better than you understand the provisions.

PROF. MADHU DANDAVATE: There is no question whether Mr. V. P. Singh understands or not. I know. These are the mandatory provisions of the law. The moment you appoint one inquiry commission you have to invoke 8B and 8C.

SHRI P. CHIDAMBARAM: No, Sir. Only if there is an inquiry into the conduct. Mr. V. P. Singh understands the position very correctly. He says that:

"If they were not satisfied with my answers to the questionnaire they would put further questions or they would give me a notice under Section 8B."

Now, what are the answers Mr. V. P. Singh gave to the questions?

In sum, he was asked, "Did you meet anyone?". He says: "No".

"Did anyone contact you?" "No".

"Did you know about the engagement, when it was made?": "No".

"Did you meet Mr. Hershman?": "No".

"Did you know the terms of engagement?": "No".

What is there for the Commission to ask him? (*Interruptions*).

SHRI S. JAIPAL REDDY: He is mis-reading 8B. May I read..... (*Interruptions*)...

SHRI P. CHIDAMBARAM: You can read in your turn.

What is there for the Commission to ask him?

SHRI S. JAIPAL REDDY: Section 8B says: (*Interruptions*)

MR. DEPUTY-SPEAKER: Both of you are arguing.

SHRI P. CHIDAMBARAM: Here is the conclusion of the Commission. The then Finance Minister... (*Interruptions*). I am not going to learn law from him. He is not going to accept my interpretation of law. Why argue? Only if there is an inquiry into the conduct—please read the section—Only if there is an inquiry into the conduct... (*Interruptions*)

SHRI S. JAIPAL REDDY: I am reading 8B: Persons likely to be effected to be heard—if at any stage of the inquiry... (*Interruptions*)

PROF. MADHU DANDAVATE: No. Here you are casting reflections on Mr. V. P. Singh.

SHRI P. CHIDAMBARAM: We are doing nothing. I will tell you what we are doing. We are doing nothing. Please sit down. (*Interruptions*)

SHRI S. JAIPAL REDDY: That means his reputation has been prejudicially affected. In that case, the Commission shall give the reasons... (*Interruptions*)

SHRI P. CHIDAMBARAM: What is the reputation to be affected when he has already pleaded his ignorance... (*Interruptions*)

I am not yielding to him... (*Interruptions*)

MR. DEPUTY-SPEAKER: You are answering him. That is the problem.

SHRI P. CHIDAMBARAM: Here is the conclusion of the Commission. "The then Finance Minister Shri V. P. Singh never came to know which foreign private agency was engaged,—Page 171—on what terms it was engaged and the work it was to do, and the manner in which it has to be done, at any time during his tenure as Finance Minister, which came to an end on January 24, 1987." Then, the then Finance Minister himself did not know about the matters pertaining to the specified agency which was engaged, the terms and conditions in which it was to work and the work it was supposed to do, during his tenure of office, which came to an end on January 24, 1987." Also, "The then Finance Minister did not take into account the fact of no foreign detective agency in America would agree to collect information unless the payment was made. Shri V. P. Singh had not given any guidelines in regard to the selection of the agency, but he left it entirely to his officers."

Sir, to question after question, the honourable Shri V. P. Singh says: "I do not know. I did not give any guidelines. I have no idea about the terms. I do not know who was engaged. I do not know what manner of work was to be done." Sir, the Commission has sympathised with Mr. V. P. Singh for his utter ignorance of what was happening in his Ministry and what his officers were doing. In fact, the best protection Mr. V. P. Singh has got is that the Commission has accepted his answers, the Commission has accepted his plea of ignorance and has posed eight questions to the Government of India to answer in the future. Is this the way your Minister should run a Ministry and is this the way the Government of India should be run? That is the

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note on which I want to close. Mr. V. P. Singh has nothing to say. Mr. V. P. Singh has pleaded ignorance. Mr. V. P. Singh pleaded that for the first time he came to know about the whole through the 'Statesman' dated 20th March. (Interruptions)

PROF. MADHU DANDAVATE: The Prime Minister has given oral orders. (Interruptions)

SHRI P. CHIDAMBARAM: What is the harm to his reputation? There is no reputation involved. What is involved is only one thing. What is involved in this case is this, that Mr. V. P. Singh was blissfully ignorant of what was happening in his Ministry. Mr. V. P. Singh took umbrage under the plea of ignorance. Mr. V. P. Singh said that he had nothing to do with all these things and the first time he came to know was only on 20th of March 1987. Sir, it would have been an utter waste of time for the Commission to call upon such a person and say, what I am going to say is likely to injure your reputation, because the Commission has accepted the plea of ignorance. The Commission has in fact saved the reputation of Mr. V. P. Singh. On the contrary the plea here is that the Commission has injured the reputation of Mr. V. P. Singh.

Sir, let me end by quoting the questions posed by the Commission. These are the questions which we have to answer. What had happened has happened, what has happened in January, February and March, has happened, and what his officers did is over. Mercifully these things came to light. We were able to stop this and we were able to stop the inquiry. The questions which the Commission has posed in Page 175 & 176, which I will not read, kindly read those questions—these questions are very disturbing questions. These questions disturb the very structure of the Government. Sir, the whole principle of

cabinet responsibility and collective responsibility hinges on the answers to these questions. Sir, can a Minister conduct himself in this way? Can a Minister by-pass his Cabinet and by-pass the Prime Minister?... (Interruptions)

PROF. MADHU DANDAVATE: It was the collective responsibility that on Muslim Women's Bill, different Cabinet Ministers have talked in different tonnes. (Interruptions)

MR. DEPUTY-SPEAKER: Let him finish. He is finishing.

SHRI P. CHIDAMBARAM: After the heat and dust of the debate is over, the hon. Members will go back to their homes and ponder over the eight questions posed by the Commission in Page 175, and they will realise the grave damage done to the polity and the Cabinet system of Government by what happened between January and March.

Sir, let me quote Ivon Jennings. In his classic book, 'Cabinet Government' in Page 235, he has said:

"The Minister who refers too much to the Cabinet is weak, he who refers too little is dangerous".

SHRI VIDYA CHARAN SHUKLA (Mahasamund): After a very involved speech of the Minister which is full of innuendos and assumptions, it is very difficult to make a logical speech. But I will try and put the sequences as they took place. We know that when the Foreign Exchange Regulation Act was passed by this House, there was a great deal of activity in getting hold of smugglers and economic offenders. After a while, that thing cooled down a little bit. After Shri V. P. Singh took over as the Finance Minister in the Union Government, then the powers given to the Government under FERA were properly utilised and not only properly utilised but the targets were properly chosen. This, of course, led to lot of discomfiture to many people, particularly those who were friendly to

the business houses and who were serving in the Union Government.

We know that much has been made about these oral orders. I have had the privilege of working and serving in the Union Government for 12 years under Mrs. Gandhi. I know it for certain and I can say—Tewariji can bear me out and many others who worked with us will bear me out—without any fear of contradiction that our oral orders were carried out as they were written orders and there was no timelimit to say that if I or somebody passed an oral order, it must be put on paper within a few days. It depended upon circumstances; it depended on many things. But they were always upheld by the officers concerned and the Ministers concerned. Therefore, as long as the officers or the commission or anybody does not deny the oral orders, oral orders were as valid as written orders. Therefore, if anybody tries to make capital out of saying oral orders and "oral orders" as has been done in the Commission's report, it is only trying to cloud the issue.

The real issue is whether the drive against economic offenders was sought to be blunted by various methods that were at the command of those people who were sympathetic to those who were being attacked by vigorously by the then Finance Minister. This is the main question. Therefore, the issue of verbal orders is absolutely a non-issue as long as the verbal orders are in the files, whether they were recorded later or they were recorded earlier. As long as nobody questions them and nobody questions the veracity of those orders, the point that has been made by various Members from the other side, has no relevance.

I was one of those who faced Shah Commission for 22 days. The Shah Commission was also politically motivated like the present Commission whose report we are discussing today. The Shah Commission was also presided over by a retired judge of the

Supreme Court. The Shah Commission, I must say, was much fairer in procedure than the Commission whose report we are discussing today... (Interruptions) I will give you my personal experience. Their motives may be unfair but the procedures were absolutely fair. I along with Mrs. Gandhi and many others were given proper notices under 8b and 8c. We were allowed to take our counsel with us. We were given absolutely proper and as many opportunities as we wanted to clarify our position and as much time as was necessary was given to us. The whole House knows that the Shah Commission's proceedings did not take place in camera; no secrecy was involved. All the top secret documents, top secret Government files marked 'top secret' were produced in the court room. The proceedings were open for general public and press.

PROF. MADHU DANDAVATE:
Even television was available.

SHRI VIDYA CHARAN SHUKLA:
I hope Tiwari Ji will tell us the specific reasons why this Commission's work done in a hush-hush manner, in secret and in camera. What were the State secrets involved? What were the State interests involved? It was only the question of economic offenders and the Government's actions on them. There was no other question that attracted any secrecy. Why do they want to treat the secrets of economic offenders as State secrets? They are not State secrets. Everything that these economic offenders have been doing and if the Government have taken any action against them that should have been made known. People should have been allowed to go and see, the Pressmen should have been allowed to report. It would then have had salutary effect over the entire country and there would have been a little more sense of credibility while discussing this Report. But the fact is that the entire proceedings started in a very peculiar manner, without staff, in the houses. I do not

[Shri Vidya Charan Shukla]

know what the two judges were doing in camera but the Report that has come out now clearly indicate that there was full justification for holding it in camera because they could have never produced a Report like this if there were people to cross-examine the witnesses if there were people to produce evidence, if the people who were indicted or whose reputation has been affected by the Report of this Commission were allowed to have their way. So, There must be a cogent explanation from the Government as to why this Commission's proceedings were held in camera and why they were not open to public scrutiny.

Some people have made this allegation that there was some problem between Reliance and Bombay Dyeing. There may have been some problems. We are not concerned with that. Here we are concerned with the fact that as far as the Government is concerned and as far as the then Finance Minister was concerned, there was no discrimination made. If some people think that there was some consideration shown to Bombay Dyeing, why don't they make a said on then? Why don't they prosecute them, or whatever they have done? And if you think they were protected earlier—now eight months have elapsed—why don't they take any action? We know there are difficulties, and there are difficulties in the Government about it. If some action is taken, it might create a small crisis in the Ministry. There might be some problem in the Cabinet. But none-the-less, we challenge that if they have things against Bombay Dyeing or Mr. Nusli Wadia, they should take immediate action against him and we will give them wholehearted support for that. If there is anything wrong with that house, they must not hesitate to take action against them.

Something was said about the terms of reference. We have had

discussions with Mr. V. P. Singh before we came to speak in this House and I had asked him this question about the terms of reference. He has told me that he suggested two or three drafts of terms of reference which were not accepted by the Prime Minister and ultimately the terms of reference that was finalised was done after a great deal of discussion and obstruction that was put in this terms of reference business by the Prime Minister. Only with great difficulty they were able to finalise it. (*Interruptions*). So, it is absolutely wrong to say that these terms of reference were framed by Mr. V. P. Singh. In fact the terms of reference were not. (*Interruptions*)

SHRI P. R. KUMARAMANGALAM:
Nobody said that.

SHRI VIDYA CHARAN SHUKLA:
Mr. Buta Singh said that earlier. But these terms of reference were not framed by V. P. Singh although he was consulted, but he was overruled and these terms of reference were finalised by the Prime Minister. (*Interruptions*). I am not yielding, Sir. I want to finish and it is for the Government... (*Interruptions*).

AN HON. MEMBER: Sir, it is word against word. He need not be... (*Interruptions*).

SHRI P. CHIDAMBARAM: It is word against fact. He remained in the Government. He did not resign that night. Sir, I am posing certain questions because Mr. Tiwari is to answer.

If Fairfax and Mr. Hershman were such security risk Government owe an explanation to the House and to the country, after the knowledge was gained that Fairfax and Mr. Hershman were employed by Mr. Bhurelal, why were they retained for a long three months period without dismissing them? It must be properly explained.

PROF. MADHU DANDAVAT:
Four months.

SHRI VIDYA CHARAN SHUKLA:
 From March to May. Even one week was enough, if they had known this. Whatever Mr. Chidambaram had said, immediately after the matter came to the notice of the Prime Minister and the Prime Minister became the Finance Minister, immediately action should have been taken to terminate its contract. Why was it kept for long 3 months and what happened during these three months? That should also be told. Whether they did any work, what was the reason or you forgot about it, it must also be told to us.

Sir, I know something about these officers. I have spent 30 years in the Lok Sabha and when I joined the Lok Sabha this gentleman came as Probationary Officers and I know them about their career, not only of these but of many officers and I can say here with full sense of responsibility that Mr. Bhure Lal and Mr. V. Pandey are the officers of highest integrity with greater patriotism. It is absolutely amazing that a responsible Minister should come to this House only to malign these officers in this House.

PROF. MADHU DANDAVATE:
 When they retire they will be able to reply to these points.

SHRI VIDYA CHARAN SHUKLA:
 You might put up Mr. Bhure Lal as a candidate in Allahabad for the Lok Sabha seat. Sir, one statement was also made that Mr. Hershman said something about this Enquiry and about this happening in Government of India. Mr. V. P. Singh did not denounce that statement. I want to say that Mr. V. P. Singh did not denounce that statement and you can take it as the statement of fact and I will prove to the satisfaction of the Chair that such a statement was made by Mr. V. P. Singh and the attempt made by the Treasury Benches to malign Mr. V. P. Singh that when Mr. Hershman made a statement he just kept quiet about it. That was absolutely wrong and false. A lot of time has been taken and our conclusions are quite clear here. This particular report is totally untrustworthy. It is a politically motivated report which is not supported by facts. Even the observations of the Commission that have been quoted by the hon. Minister are surmises at the best without supporting evidence. And therefore, the political contents of this Report are so high that there is no judicial deliberation or judicial prudence available in this Report. And therefore, the fate of this Report is going

Now, Sir, Mr. Chidambaram talked about the conspiracy hatched anywhere. There was no conspiracy anywhere. If the conspiracy was hatched, it was hatched only at the level of those people who were supporting the economic offenders. The people who were fighting the economic offenders were not hatching any conspiracy. They may have overlooked certain procedures here and there but they were bent upon fighting economic offenders and there was no question of any conspiracy between Mr. V. P. Singh, Bhure Lal and Mr. Vinod Pandey and I am constrained to say this that very good, honest and reputed officers are sought to be maligned in this House by a Minister of the Government which is a very unusual thing, not only unusual but it is a very damaging. No officer is going to stick out his neck for you and you keep on damaging the reputation of officers who have throughout their career the outstanding record and there is not an accusing finger on them so far. If you make accusation of this kind in this House here, this is not only very unfortunate but this is going to further bring down the morale of the civil services which will be detrimental to the national interest. Therefore I would like the Senior Minister present here to say something about it and undo the damage that Mr. Chidambaram has done to the morale of the civil service servants in this country.

[Shri Vidya Charan Shukla]

to be the same as all politically motivated commissions like Shah Commission and this Commission and many other Commissions that the Government might form in the short period that is available to itself before the next general election. But I must warn them that if they keep on doing this thing, this will again boomerang against them and it will destroy their credibility if there is any left and I would say that they should desist from doing his kind of thing and save the country from trouble. Instead of that, they should launch a vigorous move, a vigorous drive against the economic offenders, catch them wherever they are and bring them to book so that the excellent work that was started by Mr. V. P. Singh as the Finance Minister of India is continued and the country is delivered of these blackmarketeers and economic offenders and the tremendous amongst of damage that is being done to our economy is stopped.

Sir, I thank you very much for giving me the time to clarify my stand.

SHRI P. R. KUMARAMANGALAM (Salem): Mr. Deputy-Speaker, Sir, we have now at hand the Report of the Justice Thakkar-Natarajan Commission. When the matter came up in this House earlier, I was one of those who belonged to the Ruling Party, who went on record to say that the Fairfax issue raised many relevant questions. That was the time when there was no question of having a Commission, the issue did not reach the stage where a Commission had come up. But I had raised the question without imputing any allegation against anybody at that time. I categorically raised questions as to the propriety of appointing a private foreign detective agency especially belonging to the United States to look into a matter

of economic offenders belonging to our country, and how far this government would be authorising them by means of authority letters. I had in fact in my speech gone on to end and say categorically.

"This is a matter of national interest. I would personally like to suggest to this House that all of us who have information in this matter should put our heads together and solve this problem as this is a part of a global strategy. This is only a tip of the iceberg that we are seeing. The arms case is nothing in comparison to this when one goes lower down. Let us really apply our mind and go into this issue. It is not a simple issue of economic offenders at all. It is something which is much deeper, it is much bigger issue. It is, in fact, a collusive strategy which many forces put together have adopted to try and bring down the image of the nation, bring down the leaders of our nation and destabilise the nation."

This is what I have stated in this House on 31st of March, 1987.

The issue according to me today is not whether Mr. Bhure Lal did this or Vinod Pande did that or Mr. V. P. Singh did that. The issue is: What does this Report reveal? Does it reveal a simple administrative mistake? Does it reveal a little carelessness or calousness on the part of a Minister or certain officer, or is there a deeper meaning behind it? Sir, many speakers who spoke before me especially from the Opposition have mentioned about the political angle of the Report. I presume their reference is basically to the point that the Report dealt with this while dealing with whether it is prejudicial to the security of the nation or not, it is obvious that when a Commission is called upon to give its findings on whether the appointment of Fairfax Commission is such that

the security of India was prejudiced in any manner, it cannot but address that question. And the question of security of India itself is political and, therefore, the charge that the report is political is justified in one account. Political question has been put to them. But this political question is based on facts. The Commission have replied it, based on facts. They have raised the question, and they have answered it. It is easy to say that the Commission with two sitting members of the Supreme Court on it, is not impartial. It is easy to cast aspersions on judges. But when one criticises, speaking about matters dealing with officials, I think, one must also realise that when one casts aspersions on the judiciary, it also has its own implications.

Mr. Deputy-Speaker, there has been an appeal, in fact, it sounded like a fervent appeal — I do not know, whether it is so or not from Mr. Shukla—that we must reverse back to the vigorous drive that Mr. V. P. Singh, during his days of the Finance Minister, had against the economic offenders. If I know, after Mr. V. P. Singh left the Ministry, to the best of my knowledge, there have been more raids conducted against the economic offenders than ever before. But unfortunately the difference was that the Finance Ministers after Mr. V. P. Singh were not trying to make political capital out of it. They were interested in really pegging down the real offenders. After all, when ITC was raided and Rs. 804 crores evasion was pointed out, we did not give so much publicity to it as much as it was given in those days. It is relevant to find out, what was the objective of the so-called vigorous drive.

SHRI V. SOBHANADREESWARA RAO: That was raided during his time.

SHRI P. R. KUMARAMANGA-LAM: No, it is post. Please look at

the dates. I am sure, it is post. (Interruptions).

Unlike Mr. Chidambaram, I am not going to have this debating match or question-answer session. He was willing to take it but I am not willing to take it. I must yield. Only then, will I allow friends on the other side to raise a question. I am not yielding. If they have point of order, let them stand and raise it.

MR. DEPUTY-SPEAKER: Don't give the cause. Otherwise, points of order will automatically come.

SHRI P. R. KUMARAMANGA-LAM: Point of Order has got a system which unfortunately is not adopted often, by my friends on the other side.

Mr. Deputy-Speaker, there is another issue which has arisen. Why has this Commission been appointed—all of us are aware of it. Now the question is, has the Commission done its duty, has it, in its report, dealt with all the questions that have been raised to it. Undoubtedly, from page 268 of the report onwards, the synopsis and the conclusions that they have drawn are categorical on each issue: whether Fairfax was engaged, they do say that an oral arrangement was there with Fairfax by Mr. Bhure Lal. What was the type of engagement? They go on further to say, a special type of informer who is authorised. A lot of friends on the other side spoke of informers and said, informers were of various types. But are informers, in the normal course, given authority letters? Was Fairfax really an informer? They have been called an informer but it is definitely something between an informer and an agency which is being chosen to assist in investigation.

SHRI INDRAJIT GUPTA: Informer—that is what Mr. Brahma Dutt has said.

SHRI P. R. KUMARAMANGA-LAM: I am not speaking on behalf of either the Government or Mr. Brahma Dutt. I am an individual Member who belongs to the Congress Party, which is taking the view. I hope, you are clear and they are clear about it. I think even Mr. Inderjit Gupta is resorting to Mr. Jaipal Reddy's technique. I am sorry about it but I am a little shocked.

We go on further to say and point out that:

"the clearance was on condition that no financial risk was involved and that payments were to be made after concrete evidence was handed over, without any obligation to make prior payment or incur prior expenditure." (P. 274 of Thakkar-Natarajan Commission of Inquiry).

But when it comes to whether at all they believe it, they handle it, in the earlier pages they, have dealt with Nusli Wadia and his involvement and have categorically stated in no uncertain terms that there is a chance and possibility that payment has been made but since there is no evidence available, they are not willing to give any evidence (p. 223). (Interruptions). I do not understand. Are you still continuing the debate between Mr. Chidambaram and all of you?

I am only pointing out that the Commission has very categorically held that Mr. Wadia has played an active role in the matter of engagement of M/s. Fairfax through Shri Hershman, and Shri Bhure Lal, the then DOE, and the Finance Ministry were made instruments to serve the purpose of Shri Wadia. Here I am not pleading the case that either Mr. Bhure Lal or Mr. Pandey or Mr. V. P. Singh committed a wrong or did not commit a wrong. That is there in the report. It is there for

people to infer from seeing the facts of the report. But definitely there is a categorical finding that one person by the name of Nusli Wadia has used the DOE and Finance Ministry as instruments to serve his purpose.

SHRI VIDYA CHARAN SHUKLA: Take action against him.

SHRI P. R. KUMARAMANGA-LAM: It is important that this be taken note of. This is a categorical finding. This gentleman was given a notice under 8 (b). He was given full opportunity.

SHRI VIDYA CHARAN SHUKLA: We support you.

SHRI P. R. KUMARAMANGA-LAM: It is undoubtedly true that to satisfy—according to him and according to what is available in the report, I doubt that is the only thing—his decision to somehow put his competitor down, he resorted to this. I suppose the equation that is to be given by Mr. V. P. Singh and others would be, set a thief to catch a thief. But do you allow yourself to be used by a thief? That is the question. I do not think any person, any citizen of India, should misuse his position as a Chief Executive by a company and use the money that is at his disposal by that means.

The point is that this report categorically and in no uncertain terms reveals that an individual who is a capitalist, who is not even a citizen of India, who does business in India with the permission of the Finance Ministry of the Government of India, has the audacity to try and use the machinery of the Government of India for his private reasons. Can such a person be allowed to go scot-free? I am happy that Mr. Vidya Charan Shukla has gone on record to say that he has no objection. He says that he has no objection and he welcomes action being taken against Nusli Wadia.

PROF. MADHU DANDAVATE: I said, "we demand".

SHRI P. R. KUMARAMANGA-LAM: Did Prof. Dandavate say "we demand that"? My God... (*Interruptions*). But the question that arises is: what is the action that has to be taken? The action that I would suggest is not a mere refusal of permission to Mr. Nusli Wadia not to do business in India but nationalisation of this Company because...

SHRI VIDYA CHARAN SHUKLA: It is a good idea.

SHRI P. R. KUMARAMANGA-LAM: Its resources have come from public funds. Actually more than 95 per cent of the shares and the financial investment belongs to public funds. Why should this public fund be available at the hand of an individual, who is not an Indian, to be misused.

SHRI VIDYA CHARAN SHUKLA: One of the Ministers is the largest shareholders of this Company.

SHRI INDRAJIT GUPTA: That is the whole trouble.

PROF. MADHU DANDAVATE: Even, he should also be nationalised.

SHRI VIDYA CHARAN SHUKLA: He should also be nationalised. (*Interruptions*)

SHRI P. R. KUMARAMANGA-LAM: Mr. Deputy-Speaker, Sir, I hope some of these comments which are made by sitting in their chairs are not going on record because I think the Minister concerned should be given an opportunity a proper show-cause as per the rules.

SHRI VIDYA CHARAN SHUKLA: We support the demand of nationalisation on Bombay Dyeing Company. All of us support it. (*Interruptions*)

SHRI P. R. KUMARAMANGA-LAM: We are happy that atleast such a demand has received some support.

PROF. MADHU DANDAVATE: Please do not de-nationalise something which is there already... (*Interruptions*)

SHRI P. R. KUMARAMANGA-LAM: But the issue that is there is why is it that my friends are not able to see the fact — which one can see — out of this that the Government machinery has been misused. But there is a much larger question that arises is it the mere misuse the Government machinery to achieve some commercial objective or is there something much more.

SHRI INDRAJIT GUPTA: Conspiracy!

PROF. MADHU DANDAVATE: Destabilisation!

SHRI P. R. KUMARAMANGA-LAM: Conspiracy to bring down the image of India in the world; to use an agent of CIA, an agent of CIA as an agent of the Government of India to somehow bring charges against the Government which cannot be substantiated (*Interruptions*) What has happened is this: Mr. Hershman said and challenged saying: "I have information at my disposal which I will bring out at the appropriate time". Of course, for him, yet the time has not come.

SHRI P. M. SAYEED (Lakshadweep): Better you use the word conspiracy instead of destabilisation. (*Interruptions*)

SHRI P. R. KUMARAMANGA-LAM: The issue that arises is that why has he not done so. It is because obviously his masters have not yet indicated. Many of my friend's masters have also not given them the right signal to go ahead for a full-fledged destabilisation plan. Of

(Shri P. R. Kumaramangalam)

course that relevant week, which Mr. Chidambaram referred to, in March, that week very categorically...

SHRI INDRAJIT GUPTA: Mr. George Bush has assured your Prime Minister. Your Prime Minister has given a certificate. (*Interruptions*)

SHRI P. R. KUMARAMANGALAM: Sir, I would request you to bring the House to order. Atleast the elders in the House will follow some etiquette.

MR. DEPUTY-SPEAKER: Please wind up.

SHRI P. R. KUMARAMANGALAM: Sir, I am being asked to wind up because they are shouting...

MR. DEPUTY-SPEAKER: Because of the time-factor. (*Interruptions*)

SHRI P. R. KUMARAMANGALAM: The issue that arises is that this report categorically establishes beyond doubt that there was something at stake than mere commercial competition. If one sees the very last observation on the question of security of India, I would only like to say that all these things, quoting from Page 288 of the Report. It says:

"All these aspects have been dealt with at great length and the Commission has concluded that it was not consistent with the security of India to have engaged any foreign detective agency in general and Fairfax and Shri Hershman in particular."...

This portion of the finding should be taken note of by some of my friends on the other side that when they are pleading for Fairfax, when they are pleading for Hershman and when they are pleading for those who colluded to appoint these people

—Mr. Barris, an ally of M. Hershman, the other way round—and the Fairfax, it is clear that they are pleading for those who want to endanger the security of India. Let not this report be ignored.

I would only plead with the Government: let this Report and the questions raised by this Report be carefully considered by the Government. In fact, I feel that the House should consider it because vital matters of procedure of government have been raised, and more so, it is important to note that, when you change policy decisions, when a Minister gives—oral or written; irrelevant according to me—directions, he must realise whether his directions pertain only to his Ministry or they have implications which are of national character. If the Minister does not, then definitely the nation's security is at stake.

I would like to end by saying only one thing. I also join with Mr. Vidya Charan Shukla in requesting the Ministry of Finance and the hon. Minister for Finance not just to continue their vigorous activity in bringing economic offenders to book but I think it is time to give it a little publicity so that my friends on the other side come to know at least.

MR. DEPUTY-SPEAKER: Hon. Minister.

SHRI INDRAJIT GUPTA: Kindly be brief.

THE MINISTER OF FINANCE AND MINISTER OF COMMERCE (SHRI NARAYAN DATT TIWARI): I will be brief.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Let us have his reply tomorrow.

PROF. MADHU DANDAVATE: You can reply leisurely tomorrow.

SHRI SYED MASUDAL HOSSAIN: Actually there is no quorum now.

(*Interruptions*)

SHRI NARAYAN DATT TIWARI:
I will complete in ten minutes. Mr.
Deputy-Speaker, Sir...

MR. DEPUTY-SPEAKER: I find Mr.
Jaipal Reddy coming. He will not
allow him to finish in ten minutes.

SHRI NARAYAN DATT TIWARI:
We have just had a marathon debate,
for more than six hours. This House,
of course, has set many records of dis-
cussions, but this in itself has been a
record among records, I would say that
it has not been a very fair evening,
but it has been a Fairfax evening.

Well, what is the basic issue? Many
distinguished Members from the Op-
position have declared that the basic
issue is the economic offenders' issue.
The basic issue has been narrated in
the very first page of the Report—in
'Introduction'...

PROF. MADHU DANDAVATE:
Please do not read that. We have al-
ready read it. Let us not have another
reading session... (*Interruptions*)

SHRI NARAYAN DATT TIWARI:
It was because of an earlier debate in
Parliament that this inquiry came
about. The report mentions that:

"It would appear that some mem-
bers of the Ruling Party as also some
members of the Opposition strongly
felt that entrustment of such func-
tions to a foreign detective agency
was not in the best interests of the
nation and that it was fraught with
danger."

It was because of the persistent de-
mand in both Houses of Parliament
that this Inquiry Commission was set
up. Its main term of reference was
whether the Fairfax Group was com-
petent to carry out the task which
was entrusted to it and whether the
security of India was prejudiced in
any manner in making these arrange-
ments. This was the basic term of re-
ference. I do not understand why we
have made a political issue out of it.
I find that two sitting judges of the

Supreme Court comprising of the com-
mission have been attacked all
through...

SHRI V. SOBHANADREESWARA
RAO: Because it is a political Report.

SHRI NARAYAN DATT TIWARI:
Is it just because they were asked,
because of a debate in Parliament, to
be members of an Inquiry Commis-
sion? They were nominated by the
Supreme Court of India. They were
not nominated by any political set-
up or by the Government. They were
nominated by the recommendation of
the Chief Justice of India. They are
sitting judges. It has been a conven-
tion, under the rules of the House,
that, while speaking, we should not
make remarks which are derogatory
to the sitting judges of the Supreme
Court...

PROF. MADHU DANDAVATE: We
have attacked the judgment in Golak-
nath case during the debate on the
Twenty-fourth Constitution Amend-
ment.

SHRI NARAYAN DATT TIWARI:
I would very much like to agree with
him. We have been colleagues for so
many years. I have also great respect
for my distinguished colleague from
Madhya Pradesh who mentioned about
Shah Commission. We together fought
the Shah Commission. As he fought
the Shah Commission, I also was there
days, months and years. I was to suf-
fer Gajendragadkar Commission. I
had to suffer four commissions in
Uttar Pradesh. Therefore, I know what
a Commission means. But it is so dif-
ferent, rather we must congratulate
this Commission that it did not get
all that paraphernalia that the Shah
Commission got. It was finding of a
just plain fact. I would like to ask a
question of myself and my friend Mr.
Shukla that what should I do now as
Finance Minister? Would it be proper
and appropriate for me—leave aside
the Commission Report—to engage a
private foreign detective agency to
screen economic offenders?

(*Interruptions*) **

PROF. MADHU DANDAVATE: Yes, if necessary.

(Interruptions)

SHRI NARAYAN DATT TIWARI: Without screening? I know Mr. Bhure Lal myself. I come from Uttar Pradesh. He comes from Uttar Pradesh cadre. I know, he is rather a hard working officer.

SHRI VIDYA CHARAN SHUKLA: Honest also.

SHRI NARAYAN DATT TIWARI: Hard working and he had been honest. I know him because he was working under me. Therefore, what I mean to say is that it is not only a question of Mr. Bhure Lal or Mr. Pande but it is a question of Mr. Hershman, why was Michael Hershman involved? Was it appropriate and proper? That is the basic question. It might be Bhure Lal it might be Tiwari, it might be Pande, but why was the inquiry made? That is what I want to ask. That is where I agree with Mr. Indrajit Gupta, Mr. Acharia and also with Mr. Amal Datta. On the basic question you agree with us, you agree with the Commission Report that the hiring of a foreign agency of a dubious character of Michael Hershman was entirely wrong. That is the basic question. Nothing more, nothing less. And that is why the Commission's Report said regarding this. Page 261, I would not like to quote because Mr. Chidambaram has already mentioned so many pages.

(Interruptions)

SHRI P. CHIDAMBARAM: If you want, you can quote only one page.

SHRI NARAYAN DATT TIWARI: But here, in page 261:

"In an interview published in 'Washington Business Journal', for the week of May 11, 1987 Mr. Hershman reportedly said that 'nearly all his staff come from Government—CIA, FBI, IRS, Military Intelligence and Police.'"

PROF. K. K. TEWARY: RSS also?

SHRI NARAYAN DATT TIWARI: IRS. Then, what sort of interview Hershman gave. Mr. Hershman has done so by administering threats to the Government of India by making utterances to the effect that he would not care even if it resulted in destabilisation and he would utilise the information gathered by him for the purpose of exposing the Government of India. He has even made utterances which are derogatory in nature against the Union of India and the Prime Minister of India. (Interruptions).

Now, that is what I say about the history of Mr. Hershman. I would say that this Commission is entirely correct as far as its recommendation goes that in future we should never engage any private detective agency.

(Interruptions)

SHRI S. JAIPAL REDDY: Now they can go scot free.

(Interruptions)

SHRI NARAYAN DATT TIWARI: That is wrong... That is the main thing... That is the recommendation.

(Interruptions)

SHRI NARAYAN DATT TIWARI: Will Mr. Acharia recommend that we should have Hershman again?

SHRI BASUDEB ACHARIA: Have you got any machinery to investigate?

PROF. MADHU DANDAVATE: Mr. Ajitabh Bachchan will be very happy if nobody in Geneva investigates.

SHRI NARAYAN DATT TIWARI: Would you recommend Mr. Acharia, my dear leader of the Marxists Party, whether it was proper to have engaged Mr. Hershman?

(Interruptions)

SHRI AMAL DATTA: Not in the way you did.

SHRI NARAYAN DATT TIWARI: No economic offenders, no FERA violators, the basic question was... (Interruptions)... even if we have to engage a detective agency.. (Interruptions).

SHRI V. SOBHANADREESWARA RAO: Suppose if Mr. Hershman sends some valuable piece of information, will you deny it, will not the Government receive it?

SHRI NARAYAN DATT TIWARI: How do you select it even if you decide to detect through a private agency?

PROF. MADHU DANDAVATE: You have any agency that can nab the economic offenders. What is required is to nab the economic offenders. Even if you choose a devil we don't mind provided you nab economic offenders... (Interruptions)

SHRI NARAYAN DATT TIWARI: How did we find Mr. Hershman? There are thousands of detectives and agencies in United States. There are so many private detective agencies, as far as I am told. How was Mr. Hershman selected? Was there any screening made? Was there any advise taken from the investigative agencies? I am concerned with Mr. Bhure Lal or Mr. Tiwari or anybody because I am concerned about how Mr. Hershman alone was selected. Why were other names not selected?

SHRI INDRAJIT GUPTA: We did not select it.. (Interruptions)....

AN HON. MEMBER: Your Government selected it... (Interruptions)...

SHRI S. JAIPAL REDDY: Will the Minister enlighten us to how the informers are selected?.. (Interruptions)

PROF. MADHU DANDAVATE: He is speaking as if we selected him!

SHRI RAM DHAN: It was Mr. Rajiv Gandhiji's Government which selected him.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES (SHRI H.K.L. BHAGAT): All of them have spoken, why are they interrupting?

SHRI AMAL DATTA: I had asked a question whether the Finance Ministry has any procedure.. (Interruptions)... You please tell us about this.

SHRI H.K.L. BHAGAT: I would appeal to Mr. Amal Datta not to speak without the Chair's permission.

MR. DEPUTY SPEAKER: The Minister goes on replying to the people; that is the problem. He should address the Chair. Mr. Minister, please address the Chair. Please don't discuss with the people. Then I cannot control them.

PROF. MADHU DANDAVATE: He is posing questions to us and when we reply, you get angry. He posed a question to Mr. Basudeb Acharia and twice he sat down. (Interruptions).

SHRI NARAYAN DATT TIWARI: The drive against the economic offenders under the leadership of the Prime Minister has been there ever since he took over the office and it is continuing. May I give some figures? The number of important cases after February 87, important cases in Excise: I.T.C. an amount of approximately Rs 1080 crores—notice issued; for evasion of Excise, Godrej Boyce, Godfrey Phillips, Bajaj Auto, Reliance, Ceat Tyres, Lohia Machines, Reliance, for violation of import trade control and customs law Rs. 119.64 crores and Bombay Dying, both. We are equidistant to both. We only go according to law, without fear or favour action has been taken against both. In regard to excise evasion detected the number

[Shri Narayan Dutt Tiwari]

of cases till October, 1987 is 5626 and the total duty is Rs. 1163.32 crores as compared to Rs. 539.87 crores last year. The number of income tax searches conducted during the year 1985 was 6919. In the year 1986 the number was 6764 and upto November 1987 the number of searches conducted was 7517. The value of seizures in 1985 was Rs. 43.41 crores and in 1986 it was Rs. 90.96 crores. The value of seizures upto November 1987 was Rs. 104.86 crores. Average value per seizure in the year 1985 was Rs. 63,000. In the year 1986 it was Rs. 1.34 lakh and upto November 1987 it is Rs. 1.39 lakh. In regard to Customs raids the value of seizures in 1985 was Rs. 195.62 crores. In 1986 it was Rs. 217.52 crores and upto November 1987 it is Rs. 214.22 crores.

In regard to FERA violations the number of persons arrested in the year 1985 was 354 whereas in the year 1986 the number was 239 and upto October, 1987 the number is 187.

SHRI INDRAJIT GUPTA: The number has come down.

SHRI NARAYAN DUTT TIWARI: This figure is only upto October, 1987. There are 4-5 months to go.

[Translation]

SHRI RAM DHAN: You are quoting old figures, tell us the figures relating to your own period as Finance Minister.

SHRI NARAYAN DATT TIWARI: These figures are upto October whereas I took over the charge of this Ministry in July. (Interruptions) The number of persons detained under COFE-POSA in 1985 was 760 and in 1986 the number was 812. Upto October 1987 the figure is 671. The number of show-cause notices issued under different provisions of FERA for FERA violations in the year 1985 the number was 4362. In 1986 the number was 6736

and upto October 1987 the figure is 6290. The number of cases adjudicated in the year 1985 was 3600 and in the year 1986 the number was 4376. Upto October 1987 the figure is 14235.

[English]

SHRI BASUDEB ACHARIA: Tell us how many convicted?

SHRI NARAYAN DATT TIWARI: I am not in competition with my predecessor. We have to work according to law. This House expects us not to be just in a witch hunting spree.

Therefore, what I would say is that it is a consistent and continuous effort and I may assure the hon. Members opposite that with their cooperation and support this drive against economic offenders will continue without fear and favour under the leadership of the Prime Minister.

The latest figure in respect of detentions under COFEPOSA is 720 (upto November, 1987). Now I would not like to read out all the statistics at this late hour. What I would say is please do not make all this political. Let us not attack the Supreme Court judiciary—the sitting Judges of the Supreme Court.

SHRI RAM DHAN: They are commissioners, not judges.

SHRI NARAYAN DATT TIWARI: Let us not make everything political. It is a question concerning the methodology we should adopt in chasing the economic offenders outside India. That is the question.

I am very sorry to say that I did not have any alternative suggestion from the honourable leaders of the Opposition as to what procedure should be adopted in chasing the economic offenders outside India.

PROF. MADHU DANDAVATE: Take the help of foreign machinery.

SHRI BASUDEB ACHARIA: You have your own machinery.

SHRI NARAYAN DATT TIWARI: Therefore, that is the basic issue which has not been answered. Instead of chastising the honourable Judges of the Supreme Court, I thought that they would give their alternative suggestions.

SHRI AMAL DATTA: Set up a parliamentary committee for economic offence... (Interruptions)...

SHRI INDRAJIT GUPTA: What you said, by screening, we agree. That should not lead to the conclusion that in no case should any foreign agency be employed. If it is necessary, it should be employed after proper screening is done.

PROF. MADHU DANDAVATE: Even the Communist countries have been employing agencies in other countries when they find that economic offenders are to be detected.

SHRI NARAYAN DATT TIWARI: I would like to know as to the level of the Government at which the decision to appoint the agency was taken. Was it at the bureaucratic Secretaries' level? Was it taken at the Ministers' level? At what level he should have taken the help of American concern, whether he should have done it through his own agency. That's what has to be seen here.

SHRI BASUDEB ACHARIA: Why don't you have your own agency?

SHRI NARAYAN DATT TIWARI: Leave aside the political aspect of it. Let us not consider the issue as an Opposition or as a Government. Let us consider the issue as a single parliamentary entity. We should apply our collective mind to it that how do we deal with this issue, that is, the question of economic offenders abroad. Should we have private detective agencies of Hershman type who has such a dubious origin? That is the basic question.

SHRI V. SOBHANADREESWARA RAO: Are you allergic to the foreign agency?

PROF. MADHU DANDAVATE: No country has prohibited a private agency outside.

SHRI NARAYAN DATT TIWARI: My distinguished and elder colleague from Maharashtra mentioned that this should be thrown in dustbin.

PROF. MADHU DANDAVATE: Dustbin of history, not the dustbin of the Parliament.

SHRI NARAYAN DATT TIWARI: He told me a story about a professor. But I am reminded of another story of a judge. There were two parties appearing before the court. Of course, both the parties pleaded hard and when the judgment came, it had to go against one party. The party said: My lord, it is your judgment. I do not agree. It has to be thrown into your dustbin. So, the Judge said: My dear petitioner ...

PROF. MADHU DANDAVATE: Do not spoil...

SHRI NARAYAN DATT TIWARI: No, no, he said that if you say that it should go into the dustbin, then the dustbin will also go to the judicial records of history. Therefore, it is not a question of a dustbin. It is a question of applying our mind to the basic question that was referred to this Commission.

I would like that this should be taken into an objective manner. I assure the Hon'ble Members that we shall take all necessary steps to go through the recommendations of the report to implement them in detail.

BUSINESS ADVISORY COMMIT-
TEE

FORTY-SEVENTH REPORT

THE MINISTER OF PARLIA-
MENTARY AFFAIRS AND MINIS-
TER OF FOOD AND CIVIL
SUPPLIES (SHRI H. K. L.
BHAGAT): Sir, I beg to lay on the

Table a copy of the Forty-Seventh
Report of the Business Advisory Com-
mittee.

22.29 hrs.

*The Lok Sabha then adjourned
till Eleven of the Clock on Tuesday,
December 15, 1987| Agrahayana 24,
1909 (Saka).*